NOTICES OF PROPOSED RULEMAKING

Unless exempted by A.R.S. § 41-1005, each agency shall begin the rulemaking process by 1st submitting to the Secretary of State's Office a Notice of Rulemaking Docket Opening followed by a Notice of Proposed Rulemaking that contains the preamble and the full text of the rules. The Secretary of State's Office publishes each Notice in the next available issue of the *Register* according to the schedule of deadlines for *Register* publication. Due to time restraints, the Secretary of State's Office will no longer edit the text of proposed rules. We will continue to make numbering and labeling changes as necessary.

Under the Administrative Procedure Act (A.R.S. § 41-1001 et seq.), an agency must allow at least 30 days to elapse after the publication of the Notice of Proposed Rulemaking in the *Register* before beginning any proceedings for adoption, amendment, or repeal of any rule. A.R.S. §§ 41-1013 and 41-1022.

NOTICE OF PROPOSED RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 4. DEPARTMENT OF AGRICULTURE
PLANT SERVICES DIVISION

PREAMBLE

1. **Sections Affected** — **Rulemaking Action**

R3-4-708	Amend
R3-4-717	Amend
R3-4-737	Amend

2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

   Authorizing statute: A.R.S. § 3-445

   Implementing statute: A.R.S. § 3-445

3. **A list of all previous notices appearing in the Register addressing the proposed rule:**

   Notice of Rulemaking Docket Opening: 4 A.A.R. 1925, July 17, 1998.

4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Shirley Conard

Address: Dept. of Agriculture
1688 W. Adams, Room 124
Phoenix, Arizona 85007

Telephone: (602) 542-0962

Fax: (602) 542-5420

5. **An explanation of the rule, including the agency's reasons for initiating the rule:**

   This rulemaking revises the sampling procedure for soluble solids and clarifies that a container shall not bear deceptive information.

   R3-4-708(C), which specifies the "maturity sample and lot tolerance chart" created confusion within industry. When cantaloupe samples were taken, it was difficult to follow the chart because of conflicting data and the variances. This conflicting data resulted in inconsistent sampling and would create an adverse economic impact. When this Section was last promulgated it was based upon California's maturity sample and lot tolerance chart. Since that time, California has removed this chart from their requirements for the same reason the Department is requesting removal in this rulemaking. The sampling method proposed in R3-4-708(C) has been requested, and approved, by industry and the Department, as a fair way of sampling the product.

   The 1991-92 legislative session brought about new statutes prescribing comprehensive marketing orders, and clearer criteria concerning all aspects of the fruit, vegetable and citrus fruit regulations – from inspections and licensing to administration and assessments. These statutes also repealed, or delay repealed (January 1, 1994) the fruit, vegetable and citrus fruit standards and other areas which the industry felt were more practical within rule. The January 6, 1994 rulemaking accomplished the goal of transferring these standards to rule. However, requiring that container labeling for fruit and vegetables not bear deceptive information was inadvertently excluded in that rulemaking.

6. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

   Not applicable.

7. **The preliminary summary of the economic, small business, and consumer impact:**

   It is not anticipated that the adoption of this rule will have any financial impact on government, private industry, small business, or consumers.

   A. Estimated Costs and Benefits to the Arizona Department of Agriculture.

   The Department.is not economically affected by the implementation and enforcement of this rulemaking.

   B. Estimated Costs and Benefits to Political Subdivisions.

   Political subdivisions of this state are not directly affected by the implementation and enforcement of this rulemaking.

   C. Businesses Directly Affected By the Rulemaking.

   This rule will not economically affect any person or entity doing business with the Department.

   D. Estimated Costs and Benefits to Private and Public Employment.

   Private and public employment are not directly affected by the implementation and enforcement of this rulemaking.

   E. Estimated Costs and Benefits to Consumers and the Public.

   Consumers and the public are not directly affected by the implementation and enforcement of this rulemaking.

   F. Estimated Costs and Benefits to State Revenues.

   This rulemaking will have no impact on state revenues.

8. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

   Name: Shirley Conard

   Address: Department of Agriculture
   1688 W. Adams, Room 124
   Phoenix, Arizona 85007

   Telephone: (602) 542-0962

   Fax: (602) 542-5420

9. **The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

   Date: October 5, 1998

   Time: 10 a.m.

   Location: Department of Agriculture
   1688 W. Adams, Room 124
   Phoenix, Arizona 85007

   Nature: Public Hearing

   Written comments on the proposed rules or preliminary economic, small business, and consumer impact statement must be received by 4:00 p.m., October 5, 1998. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the department's coordinator, Patrick Stevens, (602) 542-4316 (voice) or 1-800-367-3839 (TDD Relay). Requests should be made as early as possible to allow time to arrange the accommodation.

10. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

    None.

11. **Incorporations by reference and their location in the rules:**

    Not applicable.

12. **The full text of the rules follows:**

TITLE 3. AGRICULTURE

CHAPTER 4. DEPARTMENT OF AGRICULTURE
PLANT SERVICES DIVISION

ARTICLE 7. FRUITS AND VEGETABLES STANDARDIZATION

Section
R3-4-708. Cantaloupe Standards, Containers, Packing Arrangements
R3-4-717. Melon Standards (Persian Melons, Casabas, Crenshaw, Honeydew, Honeyball, Other Specialty Melons, and Watermelons)
R3-4-737. Container Labeling for Fruit and Vegetables

ARTICLE 7. FRUITS AND VEGETABLES STANDARDIZATION

R3-4-708. Cantaloupe Standards, Containers, Packing Arrangements

A. Definitions.
1. "Mature" means that the cantaloupe has reached the stage of maturity which will insure the proper completion of the normal ripening process and the arils ~~which~~ that surround the seed during the development of maturity have been absorbed and, in addition, that the juice of the edible portion contains not less than 9% soluble solids as determined by the standard hand refractometer.
   a. Soluble solids determination: Select the least mature looking cantaloupes and remove two ½ inch diameter plugs from opposite sides of each melon, ½ the distance between the stem and blossom ends. Remove the outer 3/8 inch of the rind from the plugs, however, use all the rag on the inside of the plugs. Extract the juice from the plugs and determine the percentage of soluble solids by using the standard hand refractometer.
   b. Low sugar indicators: Poor netting, dark spots or sunburn, soft melons, dark green color, and melons which have been torn from the vine or have not reached full slip.
2. "Lidded or closed" means:
   a. ~~In the case of corrugated fiberboard containers, the container opening is~~ The opening of corrugated fiberboard containers shall be completely covered, except for necessary ventilation openings, with material similar to that used in the construction of the sides and bottom of such container and is securely attached to the top.
   b. ~~In the case~~ Forty percent or more of nailed wooded, wirebound, or other containers~~, 40% or more of the container opening is~~ openings shall be covered with material similar to that used in the construction of the sides and bottoms of such container and is securely attached to the top.
3. "Serious damage" includes damage caused by bruises, sunburn, growth cracks, cuts sponginess, flabbiness, wilting.

B. Cantaloupes shall be mature, but not overripe, fairly well netted, and free from mold, decay, and insect damage which has penetrated or damaged the edible portion of the cantaloupe and free from serious damage.

C. If a preliminary inspection of the cantaloupes indicates that further testing is required, as ~~delineated~~ prescribed in R3-4-739(A) and (B), the inspector shall ~~initiate the following maturity sampling and tolerance tests:~~ shall randomly select the following number of melons and average the results to determine the percent of soluble solids: The maturity sampling of cantaloupes in containers shall consist of the following:

Melons Per Container	Min. Melons Tested
9 or less	7
12	8
15	11
18	13
22	15
23	16

~~MATURITY SAMPLE AND LOT TOLERANCE CHART~~

~~Melons Per Crate~~	~~Min. No. Test Melons~~	~~Number Crates~~	~~Each Crate No. Low Tests~~	~~Lot Passable~~
~~2-20~~	~~4~~	~~2~~	~~2~~	~~Yes~~
~~2-20~~	~~4~~	~~3~~	~~2~~	~~No~~
~~2-20~~	~~4~~	~~2~~	~~3~~	~~No~~
~~21-40~~	~~6~~	~~2~~	~~3~~	~~Yes~~
~~21-40~~	~~6~~	~~3~~	~~3~~	~~No~~
~~21-40~~	~~6~~	~~2~~	~~4~~	~~No~~
~~41-60~~	~~8~~	~~2~~	~~4~~	~~Yes~~
~~41-60~~	~~8~~	~~3~~	~~4~~	~~No~~
~~41-60~~	~~8~~	~~2~~	~~5~~	~~No~~
~~61-80~~	~~10~~	~~12~~	~~15~~	~~Yes~~
~~61-80~~	~~10~~	~~3~~	~~5~~	~~No~~
~~61-80~~	~~10~~	~~2~~	~~6~~	~~No~~

~~**D.** Not more than five immature melons from two bulk containers or less shall be allowed from one bulk container lot. Not more than five immature melons from more than two bulk containers shall be allowed from each of two bin lots or more.~~

~~**E.**~~**D.** Not more than 5%, by count, of the cantaloupes in any ~~one container~~ 1 lot shall be allowed for any ~~one~~ 1 cause and not more than 10%, by count, shall fail to meet the total requirements prescribed in this Section.

~~**F.**~~**E.** All cantaloupes in each container shall be of ~~one~~ 1 variety or of similar varietal characteristics.

~~**G.**~~**F.** Cantaloupes packed in the standard containers shall be uniform in size and shall conform with the following:
1. All containers of cantaloupes shall have the following information appearing in plain sight and in plain letters on ~~one~~ 1 outside end:
   a. The name of the person who first packed or authorized the packing of the cantaloupe, or the name under which such packer is engaged in business; and,

b. ~~A sufficiently~~ An explicit address to permit ready location of ~~such~~ the person or business.

2. Each container of cantaloupes shall be conspicuously marked in letters of not less than ½ inch in height, stating the exact number of melons packed therein.
3. All cantaloupes shall be packed in a regular compact arrangement in a closed standard container.
4. Standard containers shall be in counts of 6, 9, 12, 15, 18, 22/23, 30 or 36.
5. Consumer containers or single layer containers shall be in counts of 5, 6, 8, or 9.

~~H.~~G. Standard and bulk containers shall conform to the following inside dimensions, in terms of inches:

	Length	Width	Depth
Standard containers	16-7/16	13-9/16	6
and consumer packs	16	12-13/16	10-1/2
	21-7/8	12	12
	21-7/8 to 22-1/8	13	13 to 13-1/2
	22-1/2	13	13-1/2
	21-7/8 to 22	13	9 to 9-1/2
	22 to 22-3/8	13	9 to 10
	22	13	10-1/2
	12-7/8	12-7/8	15-1/2 to 16
	16-3/8 to 17	12-3/8 to 13-1/4	9-3/4 to 10-1/2
	16-1/2	13-5/8 to 14	10-1/4
	22-1/8	16	6-3/4 to 8-3/4
	22-1/8	14	7-3/4
	22-1/8	14-1/2	5-3/4
	17	15-1/4	6-1/2
Bulk containers	48	38	24 or 36

R3-4-717. Melon Standards (Persian Melons, Casabas, Crenshaw, Honeydew, Honeyball, other specialty melons and watermelons)

A. Definitions.

1. "Mature" means that the melon has reached the stage of maturity ~~which~~ that will insure the proper completion of the normal ripening process and that the arils which surround the seed during the development of maturity have been absorbed. ~~In the case of honeyball and honeydew melons, the~~ The juice of the edible portion of honeyball and honeydew melons shall contain not less than 10% soluble solids as determined by the standard hand refractometer. If a preliminary inspection of the melons indicates that further testing is required, as ~~delineated~~ prescribed in R3-4-739(A) and (B), the inspector shall initiate the following maturity sampling and tolerance tests and average the results to determine the percent of soluble solids:
   a. When sampling honeydews and honeyball melons for maturity in lot containers over 600, ~~three~~ 3 melons shall be added for each additional 500 or fraction thereof. The maturity sampling of honeydews in containers shall consist of the following:

Containers in Lot	Containers Sampled
~~50 or less~~	~~3~~
~~51 to 200~~	~~5~~
~~201~~ Up to 400	7
401 to 600	9

   b. When sampling honeydews and honeyball melons for maturity in bulk containers, ~~select 13~~ 7 ~~of the least mature looking~~ honeydews or honeyballs shall be selected at random from the top of the bulk container. The maturity sampling of honeydews or honeyballs in bulk containers shall consist of the following:

No. of Bulk Containers	Containers Sampled
Less than 10	2
10 to 30	3
31 to 50	4
51 or More	5

   c. Except ~~in the case of~~ for yellow flesh watermelons, the flesh of the watermelon shall be colored to a degree not less than that indicated by Hue 4, Chrome H, in Plate 1, of A. Maerz and M. Rea Paul Dictionary of Color, First Edition, published 1930, and is incorporated herein by reference and does not include any later amendments or editions of the incorporated matter. This color standard is on file with the Office of the Secretary of State, or may be examined in the Fruit and Vegetable Standardization Offices, Arizona Department of Agriculture, 1688 West Adams, Phoenix, Arizona, 85007; or in the Fruit and Vegetable Division, AMS, U. S. Department of Agriculture, South Building, Washington, D. C., 20250.
2. "Serious damage" includes:
   a. ~~In the case of~~ Any melons~~,~~ with damage caused by growth cracks, cuts, bruises, sunburn, softness.
   b. ~~In the case of~~ Any watermelons~~,~~ with damage caused by growth cracks, cuts, bruises, sunburn, whiteheart, rindrot, softness.
      i. Beetle damage ~~shall be considered~~ is serious damage when it affects an area of over 10% of the total surface of the watermelon.
      ii. Whiteheart ~~shall be considered~~ is serious damage if apparent on internal examination.
      iii. Sunburn ~~shall be considered~~ is serious when the sunburned area, regardless of size, is devoid of green coloration and is turning brown.
      iv. Rindrot ~~shall be considered~~ is serious damage when the distinct brown color or decay in the edible flesh of at least 1 inch in aggregate occurs in the edible portion of the melon.

B. All melons, except watermelons, when being packed or offered for sale shall be mature but not overripe, and shall be free from mold, decay and insect damage which has penetrated or damaged the edible portion of the melon, and free from serious damage.

C. Watermelons shall be fairly well shaped, mature, but not overripe and shall be free from mold, decay, insect and beetle damage; and free from serious damage.

D. Not more than 5%, by count, of the melons in any ~~one~~ 1 lot shall be allowed for any ~~one~~ 1 cause and not more than 10%, by count, shall fail to meet the total requirements prescribed in this Section.

E. Standard containers in which melons are packed shall have the following information appearing in plain sight and in plain letters on one outside end:

1. The name of the person who first packed or authorized the packing of the melons, or the name under which ~~such~~ the packer is engaged in business; and,
2. ~~A sufficiently~~ An explicit address to permit ready location of ~~such~~ the person or business.

F. Bulk containers in which melons are packed shall be 24", 36"or 42"in depth.

R3-4-737. Container Labeling for Fruit and Vegetables

A. All containers shall bear in plain sight and plain letters on ~~one~~ 1 outside panel the following:
   1. The name of the shipper;
   2. The city, state and zip code of the shipper:
   3. The common or generic name of the commodity in each container;
   4. The count, measure or net weight of the commodity contained in each container, except ~~in the case of~~ for bulk containers.

B. No container shall bear any false or misleading statement.

NOTICE OF PROPOSED RULEMAKING

TITLE 3. AGRICULTURE

CHAPTER 11. VETERINARY MEDICAL EXAMINING BOARD

PREAMBLE

1. **Sections Affected** / **Rulemaking Action**

R3-11-105	Repeal
R3-11-105	New Section
R3-11-108	New Section
Table 1	New Table
R3-11-201	Repeal
R3-11-201	New Section
R3-11-301	Repeal
R3-11-301	New Section
R3-11-601	Repeal
R3-11-601	New Section
R3-11-606	New Section
R3-11-607	Repeal
R3-11-607	New Section
R3-11-707	New Section

2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

   Authorizing statute: A.R.S. § 32-2204(B)

   Implementing statute: A.R.S. §§ 32-2213(A), 32-2215, 32-2216, 32-2217.01, 32-2218, 32-2219, 32-2242, 32-2243, 32-2250, 32-2271, 32-2272, 32-2273, 41-1072 through 41-1078

3. **A list of all previous notices appearing in the Register addressing the proposed rule:**

   Notice of Rulemaking Docket Opening: 3 A.A.R. 370, February 7, 1997

   Notice of Rulemaking Docket Opening: 4 A.A.R. 1927, July 27, 1998.

   Notice of Public Meeting on Open Rulemaking Docket: 4 A.A.R. 1930, July 27, 1998.

4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

   Name: Louise Battaglia, Executive Director

   Address: Veterinary Medical Examining Board
   1400 W. Washington, Suite 230
   Phoenix, Arizona 85007

   Telephone: (602) 542-3095

   Fax: (602) 542-3093

5. **An explanation of the rule, including the agency's reasons for initiating the rule:**

   As required by A.R.S. §§ 41-1072 through 41-1078, the Board is establishing licensing time frames for each type of license, permit, and certificate issued by the Board. The rules also set forth application requirements and provide definitions to clarify terms used in the rules.

   In order to continue its licensing and oversight functions, the Board has determined that it must increase some fees. The fees for a regular veterinarian license application and state examination are being increased to $400.00 and for a veterinary technician to $150.00. Renewal fees are being changed as follows: veterinary license to $350.00, veterinary technician to $50.00, and veterinary premises license to $75.00. The Board is also adding a $5.00 fee for obtaining a directory on diskette, a $15.00 fee for verifying a license, and a $10.00 fee for providing an audiotape recording.

6. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
   Not applicable.

7. **The preliminary summary of the economic, small business, and consumer impact:**
   A. Objective of the rulemaking:

   As required by A.R.S. § 41-1072 through § 41-1078, the Board is establishing time-frames for approval to take an examination and for approving or denying a veterinary medical license, a temporary permit, a veterinary technician certificate, and a veterinary medical premises license. Additionally, the Board has determined that it must increase some fees to continue its licensing and oversight functions.

   B. Identification of those affected by the rulemaking:

   The costs associated with implementation of the rules will be borne by the Board, veterinarians, applicants, consumers of veterinary medical services, owners of veterinary premises, and veterinary technicians. The primary beneficiaries of the rules are the animals and the animal owners throughout Arizona to whom veterinary medical services are being provided.

   C. Summary of the economic, small business, and consumer impact statement:

   The Board should experience a minimal increase in costs to comply with the licensing time-frames requirements. Most of the costs are for those instances in which it is necessary to send a letter of deficiency to an applicant.

   Because the Board is a 90/10 agency, 90% of the Board's revenues from the collection of license application and renewal fees, examination fees, late renewal fees and other fees are deposited in the Board of Veterinary Medical Examiner's Fund. Ten percent is deposited in the general fund. In its April 1997 performance audit, the Arizona Auditor General made several recommendations which will require additional revenues to implement. A portion of the fees is necessary to defray the costs of the national examinations and for the administration of the examinations by the Board. Accordingly, the Board is increasing its fees as follows: The fees for a regular veterinarian license application and state examination are being increased to $400.00 and for a veterinary technician to $150.00. Renewal fees are being increased as follows: veterinary license to $350.00, veterinary technician to $50.00, and veterinary premises license to $75.00. The Board is also adding a $5.00 fee for obtaining a directory on diskette, a $15.00 fee for verifying a license, and a $10.00 fee for providing an audiotape recording. Individuals requesting audio tapes, directories on diskette, or verification of licensure will be required to pay a fee to the Board. The Board is also increasing its fee for a duplicate license by $5.00. The increases directly impact applicants, licensees, and certificate holders. Some licensees may pass the costs onto consumers.

   The application requirements are already required by the Board and should not increase costs to an applicant.

8. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name:	Louise Battaglia, Executive Director
Address:	Veterinary Medical Examining Board 1400 W. Washington, Suite 230 Phoenix, Arizona 85007
Telephone:	(602) 542-3095
Fax:	(602) 542-3093

9. **The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**
   Oral proceedings will be conducted by the Board at the following location in the state for the purpose of taking oral and written testimony on the proposed rule from members of the public.

Date:	October 5, 1998
Time:	10 a.m.
Location:	Veterinary Medical Examining Board 1400 W. Washington, Room 250 Phoenix, Arizona 85007

   The public record on the proposed rulemaking will close at 5 p.m. on October 5, 1998.

10. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
    None.

11. **Incorporations by reference and their location in the rules:**
    None.

12. **The full text of the rules follows:**

TITLE 3. AGRICULTURE

CHAPTER 11. VETERINARY MEDICAL EXAMINING Board

ARTICLE 1. GENERAL PROVISIONS

Section
~~R3-11-105.~~ ~~Fees~~
R3-11-105. Fees
R3-11-108. Time Frames for Licensure, Certification, and Permit Approvals
Table 1. Time Frames (in days)

ARTICLE 2. APPLICATION AND EXAMINATION FOR LICENSURE

~~R3-11-201.~~ ~~Application~~
R3-11-201. Application for a Veterinary Medical License

ARTICLE 3. TEMPORARY PERMITTEES

~~R3-11-301.~~ ~~Applications for Temporary Permits~~
R3-11-301. Application for a Temporary Permit

ARTICLE 6. VETERINARY TECHNICIANS

~~R3-11-601.~~ ~~Veterinary technician defined~~
R3-11-601. Definition
R3-11-606. Application for a Veterinary Technician Certificate
~~R3-11-607.~~ ~~Renewal of Veterinary Technician Certificates~~
R3-11-607. Renewal of Veterinary Technician Certificates

ARTICLE 7. VETERINARY MEDICAL PREMISES

R3-11-707. Application for a Veterinary Medical Premises License

ARTICLE 1. GENERAL PROVISIONS

~~**R3-11-105. Fees**~~

~~A. The Board will charge the following fees concerning veterinary licenses:~~
~~1. Original application and examination fee for regular licensing, $325.00.~~
~~2. Original application and examination for Specialty or Endorsement licensing, &750.00.~~
~~3. Application to take only the National Board Examination, $225.00.~~
~~4. Application to take only the Clinical Competency Test, $200.00.~~
~~5. Application to take both the National Board Examination and the Clinical Competency Test, $325.00.~~
~~6. License issuance fee:~~
~~a. In odd-numbered years, $200.00, to expire December 31 of the year following issuance.~~
~~b. In even-numbered years, $100.00, to expire December 31 of the year the license is issued.~~
~~7. Biennial renewal fee of license, $200.00.~~
~~8. Reinstatement penalty, $50.00.~~
~~9. Issuance of a duplicate license, $20.00.~~
~~10. Temporary permit application, $75.00.~~

~~B. The Board will charge the following fees concerning veterinary technicians:~~
~~1. Application and examination, $120.00.~~
~~2. Issuance of certificate:~~
~~a. In odd-numbered years, $20.00, to expire on December 31 of the year following issuance.~~
~~b. In even-numbered years, $10.00 to expire on December 31 of the year the license is issued.~~
~~3. Biennial renewal of license, $20.00.~~
~~4. Delinquency penalty, $25.00.~~
~~5. Duplicate certificate, $20.00.~~

~~C. The Board will charge the following fees concerning veterinary premises:~~
~~1. Issuance of license:~~
~~a. In odd-numbered years, $100.00, to expire on December 31 of the year following issuance.~~
~~b. In even-numbered years, $50.00 to expire on December 31 of the year the license is issued.~~
~~2. Biennial renewal of license, $50.00.~~
~~3. Duplicate certificate, $20.00.~~

~~D. Pursuant to A.R.S. § 39-121.03, the Board shall charge the following fees for the duplication or copying of public records:~~
~~1. Noncommercial and commercial copy, 25 cents per page.~~
~~2. Copying requiring more than 15 minutes use of equipment and personnel shall be charged at the rate of $5.00 for each additional 15 minute interval.~~
~~3. Directories for noncommercial use, 5 cents per name and address; if printed on labels, add 5 cents per name and address.~~
~~4. Directories for commercial use, 25 cents per name and address; if printed on labels, add 5 cents per name and address.~~
~~5. The Board reserves the right to waive the fees under this Subsection for charitable organizations and government entities.~~

~~E. The Board may charge $5.00 per copy of the veterinary laws and rules. Any licensee may obtain one free copy of this publication during each renewal period.~~

~~F. All fees are nonrefundable.~~

~~G. During the pendency of a complaint, there shall be no charge to either the veterinarian who is the subject of the complaint or a member of the public who has filed the complaint for duplication of public records regarding the complaint.~~

R3-11-105. Fees

A. Veterinarian fees are as follows:

1.	Regular license application and state examination	$400.00
2.	Specialty or endorsement application and state examination	$750.00
3.	National board examination application only	$225.00
4.	Clinical competency test application only	$200.00
5.	Regular license application, national board examination, clinical competency examination application, and state examination	$400.00
6.	License issued in odd-numbered year	$200.00
7.	License issued in even-numbered year	$100.00
8.	License renewal	$350.00
9.	Reinstatement penalty	$50.00
10.	Duplicate license	$25.00
11.	Temporary permit	$75.00
12.	Verification licensure fee	$15.00

B. Veterinary technician fees are as follows:

1.	Application and examination	$150.00
2.	Certificate issued in odd-numbered year	$30.00
3.	Certificate issued in even-numbered year	$15.00
4.	Certificate renewal	$50.00
5.	Delinquency penalty	$25.00
6.	Duplicate certificate	$20.00

C. Veterinary premises fees are as follows:

1.	License issued in odd-numbered year	$100.00
2.	License issued in even-numbered year	$50.00
3.	License renewal	$75.00
4.	Duplicate license	$20.00

D. Fees for the duplication or copying of public records under A.R.S. § 39-121.03 are nonrefundable and are as follows:

1.	Noncommercial and commercial copy	$.25 per page
2.	Copying requiring more than 15 minutes	$5.00 for each 15-minute interval exceeding 15 minutes
3.	Directories for noncommercial use	$.05 per name and address
4.	Directories for noncommercial use printed on labels	$.10 per name and address
5.	Directories for commercial use	$.25 per name and address
6.	Directories for commercial use printed on labels	$.30 per name and address
7.	A directory in 3, 4, 5, or 6 issued on a diskette	$5.00 and the applicable name and address fee

E. During the pendency of a complaint, the Board shall not charge the veterinarian who is the subject of the complaint or the individual who has filed the complaint for duplication of public records regarding the complaint.

F. The Board shall charge $5.00 per copy of the veterinary statutes and rules. A licensee may obtain 1 free copy of the veterinary statutes and rules each renewal period.

G. The Board shall charge $10.00 for each audio tape recording.

H. The Board shall waive any of the charges in subsection D for charitable organizations and government entities.

R3-11-108. Time Frames for Licensure, Certification, and Permit Approvals

A. In addition to the definitions in R3-11-101, the following definitions apply to this Chapter unless otherwise specified:
1. "Administrative completeness review" means the Board's process for determining that an individual has provided all of the information and documents required by A.R.S. § 32-2201 through § 32-2281, and this Chapter for an application.
2. "Applicant" means an individual requesting a certificate, permit, or license from the Board.
3. "Application" means the fees, forms, documents, and additional information required by the Board to be submitted with an application by an applicant or on the applicant's behalf.
4. "Days" means calendar days.

B. The overall time-frame described in A.R.S. § 41-1072(2) for each type of approval granted by the Board is set forth in Table 1. The applicant and the Executive Director of the Board may agree in writing to extend the overall time-frame. The overall time-frame and the substantive time-frame may not be extended by more than 25% of the overall time-frame.

C. The administrative completeness review time-frame described in A.R.S. § 41-1072 (1) for each type of approval granted by the Board is set forth in Table 1.
1. The administrative completeness review time frame begins:
a. For approval to take an examination, when the Board receives an application packet;
b. For approval or denial of a temporary permit, when the Board receives an application packet;
c. For approval or denial of a veterinary medical license or veterinary technician certificate, when the applicant takes the examination required by A.R.S. § 32-2201 through § 32-2281; or
d. For approval or denial of a veterinary medical premises license, when the Board receives an application packet.
2. If the application packet is incomplete, the Board shall send to the applicant a written notice specifying the missing document or incomplete information. The administrative completeness review time frame and the overall time frame are suspended from the postmark date of the notice until the date the Board receives a complete application packet from the applicant.
3. If an application packet is complete, the Board shall send a written notice of administrative completeness to the applicant.
4. If an applicant fails to take an examination within 12 months from the date an application is submitted, the Board shall consider the application withdrawn.

D. The substantive review time-frame described in A.R.S. § 41-1072(3) is set forth in Table 1 and begins on the postmark date of administrative completeness.
1. During the substantive review time-frame, the Board may make 1 comprehensive written request for additional information or documentation. The time frame for the Board to complete the substantive review is suspended from the postmark date of the comprehensive written request for additional information or documentation until the Board receives the additional information or documentation.
2. The Board shall send a written notice of approval to an applicant who meets the qualifications in A.R.S. § 32-2201 through § 32-2281 and this Chapter.
3. The Board shall send a written notice of denial to an applicant who fails to meet the qualifications in A.R.S. § 32-2201 through § 32-2281 and this Chapter.

E. If a time-frame's last day falls on a Saturday, Sunday, or an official state holiday, the next business day will be considered the time-frame's last day.

Table 1. Time-Frames (in days)

Type of Applicant	Type of Approval	Overall Time-Frame	Administrative-Completeness-Time-Frame	Substantive Review Time-Frame
Veterinary Medical License by Examination	Approval to Take a National and Clinical Competency Examination	60	15	45
Veterinary Medical License by Examination, Endorsement, or for a Specialty License	Approval to Take a State Examination	60	15	45
Temporary Permittee	Temporary Permit	30	15	15
Veterinary License by Examination, Endorsement, for a Specialty License, or Temporary Permittee	Veterinary License	60	15	45
Veterinary Technician	Approval to Take a Veterinary Technician Examination	60	15	45
Veterinary Technician	Veterinary Technician Certificate	60	30	30
Veterinary Medical Premises	Veterinary Medical Premises License	90	30	60

ARTICLE 2. APPLICATION AND EXAMINATION FOR LICENSURE

~~**R3-11-201. Application**~~

~~A. Any person who wishes to practice veterinary medicine or surgery may apply for a license issued by the Board. The application shall provide the information set forth at A.R.S. § 32-2213 and these rules. The Board shall review the application to determine whether the applicant meets the qualifications set forth at A.R.S. § 32-2215. If the Board determines that the applicant does not meet the qualifications, the Board shall deny the application and inform the applicant in writing within 60 days of its decision, and the reasons for the decision.~~

~~B. An applicant whose application is denied by the Board may request a formal hearing before the Board within the time provided by statute, A.R.S. § 41-1065. The applicant shall bear the burden of proof at this hearing.~~

R3-11-201. Application For a Veterinary Medical License

A. An applicant for a veterinary medical license shall submit all of the following to the Board:
   1. A notarized application form signed by the applicant that contains the information set forth in A.R.S. § 32-2213;
   2. The documents required in R3-11-203; and
   3. The applicable fees:
      a. If applying for a regular license, the applicant shall submit the application and examination fee required in R3-11-105.
      b. If applying for a license by endorsement as described in A.R.S. § 32-2215 (C) or a specialty license as described in A.R.S. § 2215(D), the applicant shall submit the application and examination fee and the license issuance fee required in R3-11-105.

B. Unless waived by A.R.S. § 32-2215(D), an applicant shall arrange to have an official transcript of the applicant's scores from the national board examination and clinical competency examination sent directly to the Board office by the professional examination service preparing the examination.

C. If an applicant has passed the national and clinical competency examinations and is required to take only the state examination, the applicant shall submit the application no later than 30 days before the date the applicant intends to take the state examination.

D. If an applicant is required to take the national, clinical competency, and state examinations, the applicant shall submit the application no later than 60 days before the date the applicant intends to take the examinations.

ARTICLE 3. TEMPORARY PERMITTEES

~~**R3-11-301. Application For Temporary Permits**~~

~~A. In order to be eligible for a temporary permit, all applicants shall have graduated from a veterinary college.~~

~~B. All applicants shall have applied and been accepted for the next scheduled Board examination for licensure.~~

~~C. The applicant shall identify by name and practice address the Arizona licensed veterinarian or veterinarians under whom the applicant will be receiving "direct and personal instruction, control or supervision.~~

~~D. Both the applicant and the supervising veterinarian shall submit notarized affidavits certifying their agreement and compliance with the temporary permit requirements.~~

R3-11-301. Application For a Temporary Permit

A. An applicant for a temporary permit shall:

1. Submit to the Board an application for licensure as required in R3-11-201(A)(1);
2. Submit to the Board the application and examination fee and temporary permit fee required in R3-11-105;
3. Schedule with the Board a date to take the state examination;
4. After complying with subsections (A)(1) through (A)(3), submit all of the following to the Board:
   a. A written request for a temporary permit in writing, signed by the applicant, that states:
      i. The name and business address of the licensed veterinarian who will be employing the applicant; and
      ii. The name of each licensed veterinarian who will be providing direction, supervision, and control, of the applicant;
   b. Written documentation of graduation from a veterinary college; and
   c. A sworn affidavit, signed by the applicant, stating the applicant:
      i. Has graduated from a veterinary college;
      ii. Has read and understands A.R.S. § 32-2216 and R3-11-301;
      iii. Agrees to work under the direction, supervision, and control of the licensed veterinarian employing the applicant; and
      iv. Agrees to notify the Board in writing within 10 days from the date of termination of employment.

B. A licensed veterinarian employing an applicant for a temporary permit shall submit to the Board:
1. A letter detailing:
   a. The type of work to be conducted by the applicant;
   b. The name of each licensed veterinarian who will assume direction, supervision, and control when the employing veterinarian is absent; and
   c. The procedures, including frequency, for reviewing medical treatment and records of medical treatment of animals;
2. A sworn affidavit, signed by the veterinarian, stating the veterinarian:
   a. Is currently practicing veterinary medicine in Arizona;
   b. Has read and understands A.R.S. § 32-2216 and R3-11-301;
   c. Accepts full responsibility for providing direction, supervision, and control to the applicant; and
   d. Agrees to notify the Board in writing within 10 days from the date of termination of applicant's employment.

ARTICLE 6. VETERINARY TECHNICIANS

~~**R3-11-601. Veterinary technician defined**~~

~~A veterinary technician is a person employed by, and who works under the direction, supervision and control of an Arizona licensed veterinarian, and who is certified by the State Veterinary Medical Examining Board; who performs an act requiring judgment based on education or training and knowledge and application of the principles of animal technology in the care or maintenance of the health or the prevention of illness of animals, but does not include a person licensed by the Board to practice veterinary medicine.~~

R3-11-601. Definition

For the purposes of this Article "veterinary technician" means a person who:

1. Is employed by and works under the direction, supervision, and control of an Arizona licensed veterinarian;
2. Performs acts requiring judgment based on education or experience, knowledge, and application of the principles of animal technology in the care or maintenance of the health or the prevention of illness of animals;
3. Has passed a national and a state veterinary technician examination; and
4. Is not licensed by the Board to practice veterinary medicine.

R3-11-606. Application for a Veterinary Technician Certificate

A. No earlier than January 1 and no later than 65 days before an examination date, an applicant for a veterinary technician certificate shall submit all of the following to the Board:
1. A notarized application form, signed by the applicant, containing:
   a. The applicant's name, mailing address, residence and business telephone numbers, sex, and birth date;
   b. The name of the veterinarian currently employing applicant;
   c. The name and address of the veterinary premises where applicant is employed; and
   d. A statement of whether application is being made on the basis of education or experience:
      i. If application is based upon education, the applicant shall submit written documentation of graduation from a school that meets the requirements in 32-2242(B)(1) with a curriculum in veterinary technology; or
      ii. If application is based upon experience, the applicant shall submit the information required in subsections (A)(2) and (A)(3);
2. If completed before submission of the application for certification, the date of the applicant's national veterinary technician examination. The applicant shall arrange to have an official transcript of the applicant's scores from the national veterinary technician examination sent directly to the Board office by the professional examination service preparing the examination;
3. As required in A.R.S. § 32-2242, a notarized letter from each Arizona licensed veterinarian who employed the applicant during the 2 years the applicant served as a veterinary technician, verifying the employment, indicating the length of employment, and recommending the applicant; and
4. By certified check or money order, the application and examination fee required in R3-11-105.

~~**R3-11-607. Renewal of Veterinary Technician Certificate**~~

~~A. All certificate holders shall submit renewal fees and up-to-date information concerning current employment status, location of employment, and correct home and business mailing addresses prior to February 1 of every odd-numbered year on a renewal application form provided and mailed to all certificate holders by the Board.~~

~~B. Failure to submit the appropriate certificate renewal fee prior to February 1 of every odd-numbered year shall result in forfeiture of all privileges and rights extended by the certificate and the certificate holder must immediately cease and desist in engaging further in the performance of veterinary technician services until the compliance with the requirements of subsection (A) and payment of a delinquency fee in addition to the certificate renewal fee.~~

R3-11-607. Renewal of Veterinary Technician Certificates

A. A certificate holder shall submit the renewal fee and information concerning current employment status, location of employment, and correct home and business mailing address before February 1 of every odd-numbered year on a renewal application form provided and mailed to the certificate holder by the Board.

B. Failure to submit the certificate renewal fee before February 1 of every odd-numbered year shall result in forfeiture of all privileges and rights extended by the certificate. The certificate holder shall immediately cease performing veterinary technician services until complying with the requirements of subsection (A) and paying the delinquency fee required in R3-11-105 in addition to the certificate renewal fee.

ARTICLE 7. VETERINARY MEDICAL PREMISES

R3-11-707. Application for a Veterinary Medical Premises License

A. An applicant for a veterinary medical premises license shall:
   1. Submit the following to the Board:
      a. A notarized application form, signed by the responsible veterinarian, that contains the information set forth in A.R.S. § 32-2272; and
      b. The fee required in R3-11-105; and
   2. Pass an inspection conducted by the Board.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 11. STATE BOARD OF DENTAL EXAMINERS

PREAMBLE

1. Sections Affected / Rulemaking Action

Sections Affected	Rulemaking Action
Article 1	Renumber
Article 1	Amend
Article 1	New Article
R4-11-101	Renumber
R4-11-101	Amend
R4-11-101	New Section
R4-11-102	Renumber
R4-11-103	Renumber
R4-11-103	Amend
R4-11-104	Repeal
R4-11-105	Repeal
Article 2	Renumber
Article 2	Amend
R4-11-201	Renumber
R4-11-201	Amend
R4-11-202	Repeal
R4-11-202	Renumber
R4-11-203	Renumber
R4-11-203	Amend
R4-11-204	Repeal
R4-11-205	Repeal
R4-11-206	Repeal
R4-11-207	Repeal
R4-11-208	Repeal
R4-11-209	Repeal
R4-11-210	Repeal
R4-11-211	Repeal
R4-11-212	Repeal
R4-11-213	Repeal
R4-11-214	Repeal
R4-11-215	Repeal
R4-11-216	Repeal
Article 3	Renumber
Article 3	Amend
R4-11-301	Repeal
R4-11-301	Renumber
R4-11-302	Repeal
R4-11-302	Renumber
R4-11-303	Repeal
R4-11-303	New Section
R4-11-304	Repeal

R4-11-304	New Section
R4-11-305	New Section
Article 4	Renumber
Article 4	Amend
R4-11-401	Repeal
R4-11-401	Renumber
R4-11-402	Renumber
R4-11-402	Amend
R4-11-403	Renumber
R4-11-408	Renumber
R4-11-408	Amend
Article 5	Renumber
Article 5	Amend
R4-11-501	Repeal
R4-11-501	Renumber
R4-11-502	Renumber
R4-11-502	Amend
R4-11-503	Repeal
R4-11-504	Renumber
R4-11-504	Amend
Article 6	Renumber
Article 6	Amend
R4-11-601	Repeal
R4-11-601	Renumber
R4-11-601	Amend
R4-11-602	Renumber
R4-11-603	Renumber
R4-11-603	Amend
R4-11-604	New Section
R4-11-605	New Section
R4-11-606	New Section
R4-11-607	New Section
R4-11-608	New Section
Article 7	Renumber
Article 7	Amend
R4-11-701	Renumber
R4-11-701	Amend
R4-11-702	Repeal
R4-11-702	Renumber
R4-11-702	Amend
R4-11-703	Repeal
R4-11-704	Repeal
R4-11-705	Repeal
R4-11-706	Repeal
R4-11-707	Repeal
R4-11-708	Repeal
R4-11-709	Repeal
R4-11-710	Repeal
Article 8	Renumber
Article 8	Amend
R4-11-801	Repeal
R4-11-801	Renumber
R4-11-802	Renumber
R4-11-802	Amend
R4-11-803	Renumber
R4-11-803	Amend
R4-11-804	Renumber
R4-11-804	Amend
R4-11-805	Renumber
R4-11-805	Amend
R4-11-806	Renumber
R4-11-806	Amend
Article 9	Renumber
R4-11-901	Repeal
R4-11-901	Renumber

R4-11-902	Repeal
R4-11-902	Renumber
R4-11-903	Renumber
R4-11-903	Amend
R4-11-904	Repeal
R4-11-904	Renumber
R4-11-905	Repeal
R4-11-905	Renumber
R4-11-906	Repeal
R4-11-907	Repeal
R4-11-908	Repeal
R4-11-909	Renumber
R4-11-909	Amend
Article 10	Renumber
Article 10	Amend
R4-11-1001	Renumber
R4-11-1001	Amend
R4-11-1002	Renumber
R4-11-1002	Amend
R4-11-1003	Renumber
R4-11-1003	Amend
R4-11-1004	Renumber
R4-11-1005	Renumber
Article 11	Renumber
Article 11	Amend
Article 11	New Article
R4-11-1101	New Section
R4-11-1102	Renumber
R4-11-1104	Repeal
Article 12	Renumber
Article 12	Amend
R4-11-1201	Renumber
R4-11-1201	Amend
R4-11-1202	Renumber
R4-11-1203	Renumber
R4-11-1203	Amend
R4-11-1204	Renumber
R4-11-1205	Renumber
R4-11-1205	New Section
R4-11-1206	Renumber
R4-11-1206	Amend
R4-11-1207	Renumber
Article 13	Renumber
Article 13	Amend
R4-11-1301	Renumber
R4-11-1301	Amend
R4-11-1302	Renumber
R4-11-1302	Amend
R4-11-1303	Renumber
R4-11-1303	Amend
R4-11-1304	Renumber
R4-11-1304	Amend
R4-11-1305	Renumber
R4-11-1305	Amend
Article 14	Renumber
Article 14	New Article
R4-11-1401	Repeal
R4-11-1401	New Section
R4-11-1402	Renumber
R4-11-1402	Amend
R4-11-1402	New Section
R4-11-1403	Renumber
R4-11-1403	New Section
R4-11-1404	Renumber
R4-11-1404	Amend

R4-11-1404	New Section
R4-11-1405	Renumber
R4-11-1405	New Section
R4-11-1406	Renumber
R4-11-1406	New Section
R4-11-1407	Renumber
R4-11-1407	Amend
R4-11-1408	Renumber
R4-11-1409	Repeal
Article 15	Renumber
Article 15	Amend
R4-11-1501	New Section
R4-11-1502	New Section
R4-11-1503	New Section
R4-11-1504	New Section
Article 16	New Article
R4-11-1601	New Section
Article 17	Renumber
Article 17	Amend
R4-11-1701	Renumber
R4-11-1701	Amend

2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

   Authorizing statute: A.R.S. §§ 32-1207(A)(1) and (B)(3)

   Implementing statutes: A.R.S. §§ 32-1207(A)(1), 32-1207(A)(1)(c), 32-1207(A)(6), 32-1207(A)(7), 32-1207(A)(8), 32-1207(B)(3)(a), 32-1207(B)(3)(b), 32-1232, 32-1233, 32-1236, 32-1237, 32-1238, 32-1239, 32-1281, 32-1284, 32-1285, 32-1286, 32-1287, 32-1288, 32-1289, 32-1291, 32-1293, 32-1294, 32-1295, 32-1296, 32-1297, 32-1297.01, 32-1297.02, 32-1297.03, 32-1297.04, 32-1298

3. **A list of all previous notices appearing in the Register addressing the proposed rule:**

   Notice of Rulemaking Docket Opening: 2 A.A.R. 1495, April 19, 1996.
   Notice of Proposed Rulemaking: 1 A.A.R. 2394, November 17, 1995.
   Notice of Proposed Rulemaking: 2 A.A.R. 5, January 5, 1996.
   Notice of Termination of Proposed Rulemaking (R4-11-1104): 3 A.A.R. 1413, May 30, 1997.
   Notice of Termination of Proposed Rulemaking (R4-11-501 - R4-11-504): 3 A.A.R. 1413, May 30, 1997.
   Notice of Rulemaking Docket Opening: 3 A.A.R. 1609, June 6, 1997.

4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

   Name: Julie Chapko, Executive Director

   Address: Arizona State Board of Dental Examiners
   5060 N. 19th Avenue, Suite 406
   Phoenix, Arizona 85015

   Telephone: (602) 242-1492

   Fax: (602) 242-1445

5. **An explanation of the rule, including the agency's reasons for initiating the rule:**

   These proposed rules reorganize the order of Board's rules so that they flow in a logical sequence. For example, all definitions of words and phrases used in the rules have been moved to Article 1, where they can be found in one location. The rules have then been amended to conform to current statutes and practice with regard to licensing and regulation of dentists, dental hygienists, denturists and dental assistants. As required by the Administrative Procedures Act, the Board has added rules that set forth the time frames for the application process for all of the licenses, certifications, and permits that it issues. The Board also added rules pertaining to dispensing drugs as required by statute. Other new rules include those regarding the complaint and investigation process, disciplinary action, and the mediation process. These put licensees and the public on notice of what the Board's procedures are for handling complaints, its investigation process, and potential disciplinary actions. The mediation rule codifies the procedure that the Board has successfully been using to effectively and efficiently handle certain types of complaints.

6. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

   Not applicable.

7. **The preliminary summary of the economic, small business, and consumer impact:**

   There is no economic, small business, and consumer impact or minimal (less than $1,000.00) impact for most of the proposed rules. The only rule that may have a moderate impact (between $1,000.00 and $10,000.00) is the mediation rule, wherein the board may hire a contract mediator to resolve complaints against licensees. Although this involves a moderate impact, it is far

more economical than having complaints proceed through the lengthy legal process, rather than resolving them efficiently and effectively by using a mediator.

8. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Julie Chapko, Executive Director

Address: Arizona State Board of Dental Examiners
5060 N. 19th Avenue, Suite 406
Phoenix, Arizona 85015

Telephone: (602) 242-1492

Fax: (602) 242-1445

9. **The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Date: October 5, 1998

Time: 9 a.m.

Location: Arizona State Board of Dental Examiners
5060 N. 19th Ave., Suite 406
Phoenix, Arizona 85015

Nature: Public comment hearing at which members of the public may appear and make comments regarding the rules and the economic, small business, and consumer impact statement.

The Board will accept comments until the close of record, which will not be before October 5, 1998.

10. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
None.

11. **Incorporations by reference and their location in the rules:**
None.

12. **The full text of the rules follows:**

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 11. STATE BOARD OF DENTAL EXAMINERS

ARTICLE 1. DEFINITIONS

Section
R4-11-101. Definitions

ARTICLE ~~1.~~ 2. ~~RECOGNITION OF DENTAL~~ SCHOOLS

~~R4-11-101.~~ R4-11-201. Recognized school ~~defined~~
~~R4-11-102.~~ R4-11-202. Requirements for recognition of dental and dental auxiliary schools
~~R4-11-103.~~ R4-11-203. Site visits for evaluation of educational program
~~R4-11-104. Acceptance of graduates~~
~~R4-11-105. List of currently recognized schools~~

ARTICLE ~~2.~~ 3. EXAMINATIONS, LICENSING QUALIFICATIONS, APPLICATION AND RENEWAL, TIME FRAMES

~~R4-11-201.~~ R4-11-301. Application requirements
~~R4-11-202. Subject material of written examination~~
~~R4-11-203.~~ R4-11-302. Determination of successful completion of licensure examination
R4-11-204. Theoretical written examination
~~R4-11-205. Scoring values of written examination~~
~~R4-11-206. Conduct of written examination~~
~~R4-11-207. Conduct of clinical examination~~
~~R4-11-208. Acceptance of national board certificate~~
~~R4-11-209. Examination fee -- dentist~~
~~R4-11-210. Examination fee, dental hygienist~~
~~R4-11-211. Qualifications for examination of graduates of non-recognized dental schools~~
~~R4-11-212. Recognition of and participation in the Western Regional Examining Board~~
~~R4-11-213. Acceptance of certificate of the Western Regional Examining Board~~
~~R4-11-214. Rules applying to hygienists~~
~~R4-11-215. Examination fee -- denturist~~
~~R4-11-216. Rules applying to denturists~~
R4-11-303. Application Processing Procedures; Issuance; Denial; and Renewal of Dental Licenses, Restricted Permits, Dental Hygiene Licenses, Denturist Certificates, and Dispensing Registrations
R4-11-304. Application Processing Procedures; Issuance; and Denial of Dental Assistant Certificates
R4-11-305. Application Processing Procedures; Issuance; Denial; and Renewal of General Anesthesia and Semi-Conscious Sedation Permits, and Conscious Sedation Permits

ARTICLE ~~9.~~ 4. FEES

~~R4-11-901. Triennial registration fees -- dentist~~
~~R4-11-902. Triennial registration fees -- hygienist~~
~~R4-11-903.~~ R4-11-401. Triennial registration fees -- retired or disabled licensees and certificate holders
~~R4-11-904. Penalty fees~~
~~R4-11-905. Duplicate license -- duplicate registration receipt~~
R4-11-906. Triennial registration fees -- denturist

R4-11-907. Initial licensure fee -- dentist
R4-11-908. Initial licensure fee -- hygienist
~~R4-11-909.~~ R4-11-402. Fees for Anesthesia and Sedation Permits

ARTICLE ~~11.~~ 5. ~~REGULATION OF~~ DENTISTS

~~R4-11-1102.~~ R4-11-501. Dentist of record
~~R4-11-1104.~~ ~~Advertising as a specialist~~

ARTICLE ~~4.~~ 6. ~~REGULATION OF~~ DENTAL HYGIENISTS

~~R4-11-401.~~ ~~Definitions~~
~~R4-11-402.~~ R4-11-601. Duties of a Dental Hygienist
~~R4-11-403.~~ R4-11-602. Care of Homebound Patients
~~R4-11-408.~~ R4-11-603. Limitation on Number Supervised
R4-11-604. Selection Committee; Process
R4-11-605. Dental Hygiene Committee
R4-11-606. Candidate Qualifications; Submissions
R4-11-607. Duties of the Dental Hygiene Committee
R4-11-608. Dental Hygiene Consultants

ARTICLE ~~5.~~ 7. ~~REGULATION OF~~ DENTAL ASSISTANTS

~~R4-11-501.~~ ~~Definitions~~
~~R4-11-502.~~ R4-11-701. ~~Duties~~ Procedures and Functions of a dental assistant under supervision
~~R4-11-503.~~ ~~Radiographic duties~~
~~R4-11-504.~~ R4-11-702. Limitations on Duties of Dental Assistants

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ARTICLE 1. DEFINITIONS

R4-11-101. Definitions

The following definitions, and definitions in A.R.S. § 32-1201, shall apply to this Chapter:

1. "Analgesia" means a state of decreased sensibility to pain produced by using nitrous oxide (N_2O) and oxygen (O_2) with or without local anesthesia.
2. "Application" means, for purposes of Article 3 only, forms designated as applications and all documents and additional information the Board requires to be submitted with an application.
3. "Calculus" means a hard mineralized deposit attached to the teeth.

4. "Certificate holder" means a denturist who practices denture technology pursuant to A.R.S. § 32-1293 et seq.
5. "Clinical evaluation" means a dental examination of the patient named in a complaint regarding the dental condition as it exists at the time the examination is performed.
6. "Closed subgingival curettage" means the removal of the inner surface of the soft tissue wall of a periodontal pocket in a non-flap situation.
7. "Conscious sedation" means the use of pharmacologic or non-pharmacologic methods, or a combination thereof which results in the minimal depression of the level of consciousness which maintains the ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command.
8. "Controlled substance" means a drug, substance or immediate precursor, defined or listed in A.R.S. §36-2501(A)(3).
9. "Credit hour" means 1 clock hour of participation in a recognized continuing dental education program.
10. "Deep sedation" means the same as "semi-conscious sedation".
11. "Designee" means a person to whom the Board has delegated authority to act on the Board's behalf on a particular task specified by this Chapter.
12. "Direct supervision" means, for purposes of Article 7 only, that a licensed dentist is present in the office and available to provide immediate treatment or care to a patient and observe a dental assistant's work.
13. "Direct supervision" means, for purposes of Article 13 only, that a licensed dentist is physically present in the operatory and actually performing principal services.
14. "Dispense for profit" means any amount above the administrative overhead costs to inventory and dispense a drug or device that a dentist receives for selling the drug or device.
15. "Documentation of attendance" means a document containing the following:
    a. Name of sponsoring entity,
    b. Course title and synopsis,
    c. Number of hours of credit claimed,
    d. Name of speaker,
    e. Date, time, and location of course, and
    f. Verification of registration.
16. "Epithelial attachment" means the layer of cells that extends apically the depth of the gingival (gum) sulcus (crevice) along the tooth, forming an organic attachment.
17. "Ex parte communication" means any written or oral communication between the decision maker, fact finder or any Board member and 1 party to the proceeding, in the absence of other parties to the proceedings.
18. "General anesthesia" means the use of any drug, element, or any other material which results in the elimination of sensations, accompanied by a state of unconsciousness.
19. "General supervision" means, for purposes of Article 7 only, the licensed dentist is available for consultation, whether or not the dentist is in the office, regarding procedures or treatment which the dentist has authorized and for which the dentist remains responsible.
20. "Homebound patient" means a person who is unable to receive dental care in the dental office as a result of a medically diagnosed disabling physical or mental condition.
21. "Informal interview" means the proceeding under A.R.S. §32-1263.02, during which a Board member, acting as the informal interviewing officer, and other investigators, hear testimony from the complainant, the licensee or certificate holder, and witnesses, receive and review evidence relating to the complaint to form findings of fact, conclusions of law and a recommended disposition for presentation to the full Board.
22. "Intraveneous or intramuscular sedation" means the parenteral use of any drug, element or material to produce general anesthesia, semi-conscious sedation, or conscious sedation.
23. "Investigative interview" means the proceeding conducted under A.R.S. §32-1263.02, during which an investigator or investigative panel hears testimony from the complainant, licensee or certificate holder, and witnesses, and receives and reviews evidence relating to the complaint to form findings of fact, conclusions of law and a recommended disposition for presentation to the full Board.
24. "Irreversible procedure" means a single treatment, or a step in a series of treatments, which cause change in the affected hard or soft tissues, and is permanent, or requires reconstructive or corrective procedures.
25. "Jurisdiction" means the Board's power to investigate and rule on complaints which appear to show the grounds for disciplinary action as provided in A.R.S. § 32-1201 et seq.
26. "Lay person" means a person who is not a dentist, dental hygienist, dental assistant, denturist, or dental technician.
27. "Licensee" means a dentist, dental hygienist, or person who holds a restricted permit pursuant to A.R.S. § 32-1237.
28. "Local anesthesia" means the elimination of sensations, such as pain, in 1 part of the body by the injection of an anesthetic drug.
29. "Nitrous oxide analgesia" means the use of nitrous oxide N_2O/O_2 as an inhalation analgesic.
30. "Nonsurgical periodontal treatment" means plaque removal, plaque control, supra-, and subgingival scaling, root planing, and the adjunctive use of chemical agents.
31. "Nurse anesthetist" means a licensed nurse with special training in all phases of anesthesia.
32. "Oral or rectal conscious sedation" means the oral or rectal use of any drug, element or material to produce conscious sedation.
33. "Periodontal examination and assessment" means to collect and correlate clinical signs and patient symptoms that point to either the presence of or the potential for periodontal disease.
34. "Periodontal pocket" means a pathologic fissure bordered on 1 side by the tooth and on the opposite side by crevicular epithelium and limited in its depth by the epithelial attachment.
35. "Plaque" means a film-like sticky substance composed of mucoidal secretions containing bacteria and toxic products, dead tissue cells, and debris.
36. "Prescription-only device" means:
    a. Any device that is limited by the federal act, as defined in A.R.S. §32-1901(31), restricted to use only under the supervision of a medical practitioner; or

b. Any device required by the federal act, as defined in A.R.S. §32-1901(31), to bear on its label the legend, "Caution: federal law prohibits dispensing without prescription".

37. "Prescription-only drug" means:
    a. A drug which because of its toxicity or other potential for harmful effect, the method of its use, or the collateral measures necessary to its use is not generally recognized among experts, qualified by scientific training and experience to evaluate its safety and efficacy, as safe for use except by or under the supervision of a medical practitioner;
    b. Any drug that is limited by an approved new drug application under the federal act or A.R.S. § 32-1962 to use under the supervision of a medical practitioner;
    c. Every potentially harmful drug, the labeling of which does not bear or contain full and adequate directions for use by the consumer; or
    d. Any drug, other than a controlled substance, required by the federal act to bear on its label the legend "Caution: federal law prohibits dispensing without prescription."
38. "President's designee" means the Board's executive director, investigator, or other Board member.
39. "Preventative and therapeutic agents" means substances used in relation to dental hygiene procedures that affect the hard or soft oral tissues to aid in preventing or treating oral disease.
40. "Prophylaxis" means a scaling and polishing procedure performed on patients with healthy tissues to remove coronal plaque, calculus, and stains.
41. "Recognized continuing dental education" means a program whose content directly relates to the art and science of oral health and treatment provided by a recognized dental school as defined in A.R.S. § 32-1201(15), recognized dental hygiene school as defined in A.R.S. § 32-1201(14), or recognized school of denture technology as defined in A.R.S. § 32-1201(16) or is sponsored by a national or state dental, dental hygiene, or denturist association, dental, dental hygiene, or denturist study club, governmental agency, or commercial dental supplier.
42. "Representative" means, for purposes of Article 15 only, a person recognized by the Board as authorized to act on behalf of a complainant or a party in proceedings governed by this Chapter.
43. "Root planing" means a definitive treatment procedure designed to remove cementum or surface dentin that is rough, impregnated with calculus, or contaminated with toxins or microorganisms.
44. "Scaling" means instrumentation of the crown and root surfaces of the teeth to remove plaque, calculus, and stains from these surfaces.
45. "Section 1301 permit" means a permit to administer general anesthesia and semi-conscious sedation, pursuant to Article 13.
46. "Section 1302 permit" means a permit to administer conscious sedation, pursuant to Article 13.
47. "Semi-conscious sedation" means an induced state of depressed consciousness accompanied by partial loss of protective reflexes, including the inability to continually maintain an airway independently or to respond purposefully to verbal command, and is produced by a pharmacological or non-pharmacological method or a combination thereof.
48. "Specialist" means, for purposes of Article 15 only, a licensee whose practice is limited to one of the following eight specialty categories recognized by the American Dental Association: endodontics, oral and maxillofacial surgery, orthodontics and dentofacial orthopedics, pediatric dentistry, periodontics, prosthodontics, oral pathology, or dental public health.
49. "Study Club" means a group of at least 5 Arizona licensed dentists, dental hygienists or denturists who provide written course materials or a written outline for a continuing education presentation which meet the requirements of Article 12.
50. "Treatment records" means all documentation related directly or indirectly to the dental treatment of a patient.

ARTICLE ~~1.~~ 2. ~~RECOGNITION OF~~ DENTAL SCHOOLS

~~R4-11-101.~~ R4-11-201. Recognized school ~~defined~~

The Board shall recognize all dental and dental auxiliary schools which meet the minimal educational, facility, faculty and administrative requirements ~~as set forth in rule R4-11-102~~ in this Article. ~~and the burden of satisfying these requirements shall rest with the~~ The school ~~under consideration~~ or the person who is applying for recognition of a school shall satisfy the requirements in this Article.

~~R4-11-102.~~ R4-11-202. Requirements for recognition of dental and dental auxiliary schools

A. No change.
B. No change.
C. No change.
D. No change.
E. No change.
F. No change.
G. No change.
H. No change.
I. No change.
J. No change.

~~R4-11-103.~~ R4-11-203. Site visits for evaluation of educational program

A. ~~A proper evaluation of~~ To evaluate an educational program ~~based upon requirements listed in R4-11-102 must~~ pursuant to this Article, the Board shall ~~include a~~ visit ~~to~~ the facility applying for recognition ~~in Arizona~~. ~~It will be the responsibility of the~~ The institution or ~~the individual~~ person applying on behalf of the institution for school recognition ~~of the school, to provide a means for the Arizona Board of Dental Examiners~~ shall pay for the Board, or its representatives, to visit the facility ~~in question for the purpose of properly evaluation the program in dental education toward qualifying graduates to take the Arizona Dental Licensure Examination.~~
B. No change.
C. No change.

~~R4-11-104. Acceptance of graduates~~

~~**A.** When a school teaching dentistry or dental auxiliary training outside the United States or Canada is recognized by the Board based upon foregoing requirements, only that year's graduates and future graduates will qualify for examination. Recognition of a school will not mean all past graduates qualify.~~

~~**B.** Past graduates of schools outside the United States or Canada not previously recognized by the Arizona Board of Dental Examiners must still qualify for licensure examination after~~

~~the time of that school's recognition under provisions of rule R4-11-211.~~

~~C. Current and future graduates may also qualify for licensure examination under provisions of rule R4-11-211.~~

~~**R4-11-105. List of currently recognized schools**~~
~~A list of all dental schools and dental hygiene schools currently recognized by the Arizona State Board of Dental Examiners is incorporated herein by reference and made a part hereof as if fully set forth.~~

ARTICLE ~~2.~~ 3. EXAMINATIONS, LICENSING QUALIFICATIONS, APPLICATION AND RENEWAL, TIME FRAMES

~~R4-11-201.~~ R4-11-301. Application requirements

A. ~~The examination fee as set forth in rules R4-11-209 and R4-11-210, a sworn statement of the applicant's qualifications on an application blank provided by the Board, along with a copy of the diploma from the applicant's dental or dental hygiene school, a copy of the certificate from the Western Regional Examining Board and a copy of the applicant's results of the National Board examination pursuant to rule R4-11-208, must be in the hands of the secretary before a license may be issued.~~
An applicant shall provide the following information with an application form provided by the Board:
1. A sworn statement of the applicant's qualifications;
2. A photograph of the applicant that is no more than 6 months old;
3. An official, sealed transcript sent directly from the applicant's dental, dental hygiene, or denture technology school to the Board;
4. A copy of the certificate from the Western Regional Examining Board reflecting the applicant passed the Western Regional Examining Board examination within the 5 years immediately preceding the date the application was filed with the Board;
5. An official score card sent directly from the National Board examination to the Board;
6. A copy of the applicant's cardiopulmonary resuscitation certification, reflecting the expiration date;
7. A letter of endorsement from any other jurisdiction in which an applicant is licensed, sent directly from that jurisdiction to the Board;
8. A copy of the self-inquiry from the National Practitioner Data Bank that is no more than 6 months old;
9. A letter of endorsement from the dental school from which the applicant graduated if the applicant is a new graduate or has been practicing less than 6 months;
10. A letter of endorsement from the applicant's commanding officer or superior if the applicant is in the military or employed by the United States government; and
11. The jurisprudence examination fee.

B. An applicant may be requested to provide:
1. An official copy of the applicant's dental school diploma,
2. A copy of a certified document reflecting the reason for a name change if the applicant's application reflects different names,
3. Verification of work history, and
4. A copy of a high school diploma or equivalent certificate.

~~B.~~ C. ~~Pursuant to rule R4-11-206, the applicant must also have successfully completed the Arizona jurisprudence examination and in the event the applicant does not have a certificate of the National Board, must have successfully completed the Arizona theory examination before a license may be issued.~~
An applicant shall pass the Arizona jurisprudence examination.

~~**R4-11-202. Subject material of written examination**~~
~~The written examination shall be on such subjects as the Board may, from time to time, select from the curricula of recognized dental and dental hygiene schools. A list of such subjects shall be on file with the secretary of the Board at least 30 days before such written examination and shall be open to inspection by any applicant.~~

~~R4-11-203.~~ R4-11-302. Determination of successful completion of licensure examination

A. No change.
B. No change.
C. No change.

~~**R4-11-204. Theoretical written examination**~~
~~A. The theory examination will be composed of seven sections. The applicant must receive a passing grade on all seven sections to have successfully completed this portion of the examination.~~
~~B. If the applicant has failed no more than three sections of the theory examination, he or she may make arrangements to retake the individual portions failed.~~
~~C. If the applicant has failed more than three sections of the theory examination, he or she may make arrangements to retake the full theory examination.~~
~~D. No applicant may retake portions or the full theory examination more than two times until meeting requirements of subsection (E).~~
~~E. If the applicant does not successfully complete the theory exam, within the three times allowed, that applicant must take an academic refresher course approved by the Board to be eligible for retake of the full theory examination.~~

~~**R4-11-205. Scoring values of written examination**~~
~~The Board shall have the right to assess whatever number of points to each particular question as it deems advisable but shall, whenever questions are not of equal value, advise the applicant.~~

~~**R4-11-206. Conduct of written examination**~~
~~All examinations shall be given in a manner as determined by the Board. Handwriting of candidates must be legible. All questions must be returned to the Board with each examination paper. Written examinations outside of the clinical examination, will consist of theory for dentists, theory for hygienists, jurisprudence for dentists, and jurisprudence for hygienists. Applicants holding valid certificates of the national Board of Dental Examiners may be exempt from the theory portion of the written tests pursuant to rule R4-11-208.~~

~~**R4-11-207. Conduct of clinical examination**~~
~~The clinical examination required for dental or dental hygiene licensure shall be that administered by the Western Regional Examining Board.~~

~~**R4-11-208. Acceptance of national board certificate**~~
~~The Board will accept an applicant's certificate of the National Board of Examiners for exemption from the written theory portion of the Arizona State Board of Dental Examiners licensure examination.~~

~~**R4-11-209. Examination fee — dentist**~~
~~The examination fee shall be $50.00 for examination for licensure in dentistry and shall be payable by certified check, money order~~

~~or cashiers check only and shall accompany the application for dental license.~~

~~**R4-11-210. Examination fee, dental hygienist**~~
~~The examination fee shall be $25.00 for examination for licensure in dental hygiene and shall be payable by cashiers check, certified check or money order only and shall accompany the application for dental hygiene license.~~

~~**R4-11-211. Qualifications for examination of graduates of non-recognized dental schools**~~
~~A graduate of a school of dentistry or dental hygiene not recognized by the Arizona State Board of Dental Examiners may, through his or her own individual efforts, qualify the school from which the applicant graduated for recognition by the Board for purposes of the examination for licensure. Successful completion of the following requirements by the applicant will qualify the school for recognition only for that applicant and none other may qualify for the licensure examination under the recognition of the school achieved by that applicant.~~

1. ~~The applicant must be legally entitled to permanently reside within the United States and must be a graduate of a dental teaching institution listed in the World Director of Dental Health, World Health Organization, with certified transcripts of such training (including documented English translation of the original) showing completion of not less than six academic years of post secondary study culminating in the degree of Doctor of Dentistry or its equivalent from that school of study and must have sufficient command of the English language to engage in the testing procedures of the Arizona Board of Dental Examiners.~~
2. ~~The applicant must show proof of having been licensed in the country in which he went to school, unless he is a citizen of the United States attending a foreign school.~~
3. ~~The applicant must have successfully completed parts 1 and 2 of the examination give by the United States National Board of Dental Examiners within the last five years prior to licensure exam and hold a certificate issued to the applicant showing that successful completion.~~
4. ~~The applicant must have successfully completed all phases of the pre-clinical examination given by the Arizona State Board of Dental Examiners before being considered qualified for Arizona's Dental Licensure Examination.~~
5. ~~If the applicant is successful on all portions of the pre-clinical examination, he must then complete regular application procedures to take the Arizona Examination for Dental Licensure.~~
6. ~~The examination fee for the pre-clinical testing procedures is $125.00.~~

~~**R4-11-212. Recognition of and participation in the Western Regional Examining Board**~~

~~**A.** The Arizona State Board of Dental Examiners recognizes the Western Regional Examining Board, hereinafter designated W.R.E.B., a corporation whose initial registered office is 317 S.W. Alder, Suite 1010, Portland, Oregon, 97204, as a testing agency whose standards of clinical and theoretical dental examinations are substantially equivalent to those given in Arizona.~~

~~**B.** The Arizona State Board of Dental Examiners, accepts as a participating member of the W.R.E.B. all the incumbent responsibilities and privileges of a participating membership.~~

~~**R4-11-213. Acceptance of certificate of Western Regional Examining Board**~~
~~When a Western Regional Examining Board certificate is accepted in lieu of Arizona's clinical examination, the applicant will be given the written examination pursuant to R4-11-206 and upon successful completion of that portion of the examination and any and all other requirements, the applicant will be issued a license to practice dentistry or dental hygiene.~~

~~**R4-11-214. Rules applying to hygienists**~~
~~The foregoing rules, insofar as applicable, shall apply equally to the giving of the examination for license as dental hygienist.~~

~~**R4-11-215. Examination fee—denturist**~~
~~The examination fee shall be $125.00 for examination for certification in denture technology. The fee shall be payable by certified check or money order and shall accompany the application for examination in denture technology.~~

~~**R4-11-216. Rules applying to denturists**~~
~~Insofar as applicable, the foregoing rules shall apply equally to the giving of the examination for certification as a denturist.~~

R4-11-303. Application Processing Procedures; Issuance; Denial; and Renewal of Dental Licenses, Restricted Permits, Dental Hygiene Licenses, Denturist Certificates, and Dispensing Registrations

A. Within 14 calendar days of receiving an initial or renewal application for a dental license, restricted permit, dental hygiene license, denturist certificate, or dispensing registration, the Board shall notify the applicant, in writing, that the application package is complete or incomplete. If the package is incomplete, the notice shall specify what information is missing.

B. An applicant with an incomplete package shall supply the missing information within 60 calendar days from the date of the notice. If the applicant fails to do so, an applicant shall begin the application process anew.

C. Upon receipt of all missing information, the Board shall notify the applicant, in writing, within 10 calendar days, that the application is complete.

D. The Board shall not process an application until the applicant has fully complied with the requirements of this Article.

E. The Board shall notify an applicant, in writing, whether an initial license or renewal governed by this Section is granted or denied, no later than 90 calendar days after the date of the notice advising the applicant that the package is complete.

F. The Board may deny a license or renewal governed by this Section for any of the reasons stated in A.R.S. § 32-1201 et seq., or if the applicant:

1. Fails to provide complete documentation;
2. Provides false or misleading information; or
3. Fails to meet the requirements of A.R.S. § 32-1201 et seq., or this Chapter.

G. The notice of denial shall inform the applicant of the following:

1. Each reason for the denial, with citations to the statutes or rules on which the denial is based;
2. The applicant's right to request a hearing on the denial, including the number of days the applicant has to file the request;
3. The applicant's right to request an informal settlement conference under A.R.S. § 41-1092.06; and
4. The name and telephone number of an agency contact person who can answer questions regarding the application process.

H. The following time-frames shall apply for an initial or renewal application governed by this Section:

1. Administrative completeness review time-frame: 14 calendar days.
2. Substantive review time-frame: 90 calendar days.
3. Overall time-frame: 104 calendar days.

J. An applicant whose license is denied has a right to a hearing, an opportunity for rehearing, and, if the denial is upheld, may seek judicial review pursuant to A.R.S. Title 41, Chapter 6, Articles 6 and 10, and A.R.S. Title 12, Chapter 7, Article 6.

R4-11-304. Application Processing Procedures; Issuance; and Denial of Dental Assistant Certificates

A. Within 14 calendar days of receiving an application from an applicant for a dental assistant certificate, the Board or its designee shall notify the applicant, in writing, that the application package is complete or incomplete. If the package is incomplete, the notice shall specify what information is missing.

B. An applicant with an incomplete package shall supply the missing information within 60 calendar days from the date of the notice. If the applicant fails to do so, an applicant shall begin the application process anew.

C. Upon receipt of all missing information, within 10 calendar days, the Board or its designee shall notify the applicant, in writing, that the application is complete.

D. The Board or its designee shall not process an application until the applicant has fully complied with the requirements of this Article.

E. The Board or its designee shall notify an applicant, in writing, whether the certificate is granted or denied, no later than 90 calendar days after the date of the notice advising the applicant that the package is complete.

F. The Board or its designee may deny certification if an applicant fails the clinical or written portions of the Dental Assisting National Board examination.

G. The notice of denial shall inform the applicant of the following:
1. The reason for the denial, with a citation to the statute or rule which requires the applicant to pass the examination;
2. The applicant's right to request a hearing on the denial, including the number of days the applicant has to file the request;
3. The applicant's right to request an informal settlement conference under A.R.S. § 41-1092.06; and
4. The name and telephone number of an agency contact person or a designee who can answer questions regarding the application process.

H. The following time-frames shall apply for certificate applications governed by this Section:
1. Administrative completeness review time-frame: 14 calendar days.
2. Substantive review time-frame: 90 calendar days.
3. Overall time-frame: 104 calendar days.

J. An applicant whose certificate is denied has a right to a hearing, an opportunity for rehearing, and, if the denial is upheld, may seek judicial review pursuant to A.R.S. Title 41, Chapter 6, Articles 6 and 10, and A.R.S. Title 12, Chapter 7, Article 6.

R4-11-305. Application Processing Procedures; Issuance; Denial; and Renewal of General Anesthesia and Semi-Conscious Sedation Permits, and Conscious Sedation Permits

A. Within 14 calendar days of receiving an initial or renewal application for a general anesthesia and semi-conscious sedation permit or a conscious sedation permit, the Board shall notify the applicant, in writing, that the application package is complete or incomplete. If the package is incomplete, the notice shall specify what information is missing.

B. An applicant with an incomplete package shall supply the missing information within 60 calendar days from the date of the notice. If the applicant fails to do so, an applicant shall begin the application process anew.

C. Upon receipt of all missing information, the Board shall notify the applicant, in writing, within 10 calendar days, that the application is complete.

D. The Board shall not process an application until the applicant has fully complied with the requirements of this Article.

E. The Board shall notify an applicant, in writing, whether the initial permit or renewal governed by this Section is granted or denied, no later than 120 calendar days after the date of the notice advising the applicant that the package is complete.

F. The Board may deny a permit or renewal governed by this Section for any of the reasons stated in A.R.S. § 32-1201 et seq., or if the applicant:
1. Fails to provide complete documentation;
2. Provides false or misleading information; or
3. Fails to meet the requirements of A.R.S.§ 32-1201 et seq. or this Chapter.

G. The notice of denial shall inform the applicant of the following:
1. Each reason for the denial, with citations to the statutes or rules on which the denial is based;
2. The applicant's right to request a hearing on the denial, including the number of days the applicant has to file the request;
3. The applicant's right to request an informal settlement conference under A.R.S. § 41-1092.06; and
4. The name and telephone number of an agency contact person who can answer questions regarding the application process.

H. The following time-frames shall apply for an initial or renewal application governed by this Section:
1. Administrative completeness review time-frame: 14 calendar days.
2. Substantive review time-frame: 120 calendar days.
3. Overall time-frame: 134 calendar days.

ARTICLE ~~9.~~ 4. FEES

~~**R4-11-901. Triennial registration fees -- dentist**~~
~~Pursuant to A.R.S. § 32-1236, the triennial registration fee for dentists shall be $360.00.~~

~~**R4-11-902. Triennial registration fees -- hygienist**~~
~~Pursuant to A.R.S. § 32-1287, the triennial registration fee for hygienists shall be $180.00.~~

~~**R4-11-903.**~~ **R4-11-401. Triennial registration fees -- retired or disabled licensees and certificate holders**

A. No change.
B. No change.
C. No change.
D. No change.

~~**R4-11-904. Penalty fees**~~
~~Should a licensee fail to pay the annual registration fee on or before June 30, there shall be a penalty fee assessed in the amount of $25.00.~~

~~**R4-11-905. Duplicate license -- duplicate registration receipt**~~
~~There shall be a fee of $25.00 for each duplicate license and/or duplicate registration receipt.~~

~~R4-11-906. Triennial registration fees—denturist~~
~~Pursuant to A.R.S. § 32-1297.06, the triennial registration fee for denturists shall be $210.00.~~

~~R4-11-907. Initial licensure fee—dentist~~
~~The initial license fee required by A.R.S. § 32-1236(B) is $75.00.~~

~~R4-11-908. Initial licensure fee—hygienist~~
~~The initial license fee required by A.R.S. § 32-1287(B) is $35.00.~~

~~R4-11-909.~~ R4-11-402. **Fees for Anesthesia and Sedation Permits**

A. Pursuant to A.R.S. § 32-1207(D), the ~~application~~ fee for a Section ~~802~~ 1301 permit to administer general anesthesia and semiconscious sedation or a Section ~~803~~ 1302 permit to administer conscious sedation shall be $300.

B. Upon successful completion of the initial on-site evaluation and upon receipt of ~~appropriate fees~~ the required permit fee ~~as defined in R4-11-909(A), the dentist shall be issued~~ the Board shall issue a separate Section ~~802 or 803~~ 1301 or 1302 permit to a dentist ~~with an expiration date which falls into the existing anesthesia permit triennial period~~ for each location requested by the dentist. A permit expires on December 31 of every 3rd year.

C. The renewal fee for each Section ~~802 or 803~~ 1301 or 1302 permit shall be $300 per ~~doctor~~ dentist, per location.

ARTICLE ~~11.~~ 5. ~~REGULATION OF~~ DENTISTS

~~R4-11-1102.~~ R4-11-501. **Dentist of record**

A. No change.
B. No change.
C. No change.
D. No change.
E. ~~The~~ A dentist of record shall remain responsible for the care of ~~the~~ a patient during the course of treatment and shall be available to the patient through the dentist's office, an emergency number, an answering service, or a substituting dentist. Lack of availability to the patient on an emergency basis shall constitute abandonment and the dentist shall be subject to disciplinary action ~~under unprofessional conduct as defined in A.R.S. § 32-1201.10~~ for unprofessional conduct pursuant to A.R.S. § 32-1201 et seq.

~~R4-11-1104. Advertising as a specialist~~
~~A dentist shall not use the terms "specialty" or "specialist" nor any of the terms used to designate a dental specialty such as:~~
~~1. Endodontist~~
~~2. Oral or maxillofacial surgeon~~
~~3. Orthodontist~~
~~4. Pedodontist~~
~~5. Periodontist~~
~~6. Prosthodontist or any derivation of such words to describe or advertise his or her professional services unless the dentist is recognized by the appropriate specialty board of the Commission on Accreditation of Dental Education of the American Dental Association or other generally recognized accreditation organization as board-eligible or board-certified within the specialty described or advertised.~~

ARTICLE ~~4.~~ 6. ~~REGULATION OF~~ DENTAL HYGIENISTS

~~R4-11-401. Definitions~~
~~A. Word definitions in this Article, unless the context otherwise requires:~~
~~1. "Calculus" means a hard mineralized deposit attached to the teeth.~~
~~2. "Epithelial attachment" means the layer of cells that extends downward from the bottom of the gingival (gum) sulcus (crevice) along the tooth and attaches to it.~~
~~3. "Homebound patient" means a person who is unable to receive dental care in the dental office as a result of a medically diagnosed disabling physical or mental condition.~~
~~4. "Periodontal pocket" means a pathologic fissure bordered on one side by the tooth and on the opposite side by crevicular epithelium and limited at its apex by the epithelial attachment.~~
~~5. "Plaque" means a film-like sticky substance composed of mucoidal secretions containing bacteria and their toxic products, dead tissue cells, and debris.~~
~~6. "Preventive and therapeutic agents" means substances used in relation to dental hygiene procedures that affect the hard or soft oral tissues in such a way as to prevent or treat oral disease.~~
~~B. Procedures definitions. In this Article, unless the context otherwise requires:~~
~~1. "Closed subgingival curettage" means the removal of the inner surface of the soft tissue wall of a periodontal pocket in a non-flap situation.~~
~~2. "Irreversible procedure" means a single treatment or part of a multistep series of treatments which causes changes in the affected hard or soft tissues that are either permanent or require reconstructive or corrective procedures.~~
~~3. "Local anesthesia" means the elimination of sensations, especially pain, in one part of the body by the injection of an anesthetic drug.~~
~~4. "Nitrous oxide analgesia" means the use of nitrous oxide N_2O/O_2 as an inhalation analgesic.~~
~~5. "Nonsurgical periodontal treatment" means plaque removal, plaque control, supra-, and subgingival scaling, root planing, and the adjunctive use of chemical agents.~~
~~6. "Periodontal examination and assessment" means to collect and correlate clinical signs and patient symptoms that point to either the presence of or the potential for periodontal disease.~~
~~7. "Prophylaxis" means a scaling and polishing procedure performed on patients with healthy tissues to remove coronal plaque, calculus, and stains.~~
~~8. "Root planing" means a definitive treatment procedure designed to remove cementum or surface dentin that is rough, impregnated with calculus, or~~ contaminated with toxins or microorganisms.
~~9. "Scaling" means instrumentation of the crown and root surfaces of the teeth to remove plaque, calculus, and stains from these surfaces.~~

~~R4-11-402.~~ R4-11-601. **Duties of a Dental Hygienist**

A. A dental hygienist may apply preventative and therapeutic agents under the general supervision~~, as defined in A.R.S. § 32-1281(H)(2),~~ of a licensed dentist.

B. A dental hygienist may perform ~~other procedures~~ a procedure not specifically authorized by A.R.S. § 32-1281 when all of the following conditions are satisfied:
1. The procedure is recommended or prescribed by the supervising dentist; ~~and~~
2. The hygienist has received instruction, training, ~~and/or~~ or education ~~necessary~~ to perform ~~such~~ the procedure in a safe manner; and

3. The procedure is performed under the general supervision~~, as defined in A.R.S. § 32-128(H)(2),~~ of a licensed dentist.

C. ~~For purposes of qualification of~~ The Board shall qualify a dental hygienist to perform local anesthesia and nitrous oxide analgesia as authorized by A.R.S. § 32-1281(F)(1) and (2), ~~the Board recognizes~~ who has completed courses in techniques taught in a recognized dental hygiene school and recognized dental school, as defined in A.R.S. § 32-1201(14) and (15), ~~which require current cardiopulmonary resuscitation certification as a prerequisite, and~~ which consist of a minimum of 36 clock hours of instruction, and ~~successful completion of these examinations of~~ who has passed examinations in theoretical knowledge and clinical competency in the following subject areas:
   1. Review of head and neck anatomy;
   2. Pharmacology of anesthetic and analgesic agents;
   3. Medical - dental history considerations;
   4. Emergency procedures;
   5. Selection of appropriate armamentarium and agents;
   6. Nitrous oxide administration;
   7. Clinical practice, under ~~the~~ direct supervision, as defined in A.R.S. § 32-1281(H)(1), ~~of a licensed dentist, which includes a minimum of three~~ including at least 3 experiences ~~in the administration of~~ administering each of the following:
      a. Posterior superior alveolar injection,
      b. Middle superior alveolar injection,
      c. Anterior superior alveolar injection,
      d. Nasopalatine injection,
      e. Greater - palatine injection,
      f. Inferior alveolar nerve injection,
      g. Lingual injection,
      h. Mental injection,
      I. Long buccal injections, and
      j. Nitrous oxide analgesia.

D. No change.
E. No change.
F. No change.
G. No change.

~~R4-11-403.~~ R4-11-602. Care of Homebound Patients
No change.

~~R4-11-408.~~ R4-11-603. Limitation on Number Supervised
~~No more than three dental hygienists may perform their professional duties under a dentist's supervision at any one time.~~
A dentist shall not supervise more than 3 dental hygienists at a time.

R4-11-604. Selection Committee; Process
A. The Board shall appoint a selection committee to screen candidates for the dental hygiene committee. The selection committee consists of 3 members. The Board shall appoint at least 2 members who are dental hygienists and 1 member who is a current Board member. The Board shall fill any vacancy for the unexpired portion of the term.
B. Each selection committee member's term is 1 year.
C. By majority vote, the selection committee shall nominate each candidate for the dental hygiene committee and transmit a list of names to the Board for approval, including at least 1 alternate.

R4-11-605. Dental Hygiene Committee
A. The Board shall appoint 7 members to the dental hygiene committee as follows:
   1. 1 dentist appointed at the annual December Board meeting, currently serving as a Board member, for a 1 year term;
   2. 1 dental hygienist appointed at the annual December Board meeting, currently serving as a Board member and possessing the qualifications required in Article 6, for a 1 year term;
   3. 4 dental hygienists that possess the qualifications required in Article 6; and
   4. 1 lay person.

B. Except for members appointed as prescribed in subsections (A)(1) and (A)(2), the Board shall appoint dental hygiene committee members for staggered terms of 3 years, beginning January 1, 1999, and limit each member to 2 consecutive terms. The Board shall fill any vacancy for the unexpired portion of the term.
C. The dental hygiene committee shall annually elect a chairperson at the 1st meeting convened during the calendar year.

R4-11-606. Candidate Qualifications; Submissions
A. A dental hygienist who seeks membership on the dental hygiene committee shall possess a license in good standing, issued by the Board.
B. A dental hygienist who is not a Board member and qualifies under subsection (A) shall submit a letter of intent and resume to the Board.
C. The selection committee shall consider all of the following criteria when nominating a candidate for the dental hygiene committee:
   1. Geographic representation,
   2. Experience in post-secondary curriculum analysis and course development,
   3. Public health experience, and
   4. Dental hygiene clinical experience.

R4-11-607 Duties of the Dental Hygiene Committee
A. The committee shall advise the Board on all matters relating to the regulation of dental hygienists.
B. In performing the duty in subsection (A), the committee may:
   1. Act as a liaison for the Board, promoting communication and providing a forum for discussion of dental hygiene regulatory issues;
   2. Review applications, syllabi, and related materials and make recommendations to the Board regarding certification of courses in local anesthesia, nitrous oxide analgesia, and suture placement under Article 6 and other procedures which may require certification under Article 6;
   3. Review documentation submitted by dental hygienists to determine compliance with the continuing education requirement for license renewal under Article 12 and make recommendations to the Board regarding compliance;
   4. Make recommendations to the Board concerning statute and rule development which affect dental hygienists' education, licensure, regulation, or practice;
   5. Provide advice to the Board on standards and scope of practice which affect dental hygiene practice;
   6. Provide ad hoc committees to the Board upon request;
   7. Request that the Board consider recommendations of the committee at the next regularly scheduled Board meeting; and
   8. Make recommendations to the Board for approval of dental hygiene consultants.

C. Except at an open meeting, the committee shall not express opinions or provide information to any person or entity other

than the Board, regarding a matter within the jurisdiction of the Board, without the Board's express authorization.

D. Committee members who are licensed dentists or dental hygienists may serve as Western Regional Examining Board (WREB) examiners or Board consultants.

E. The committee shall meet at least 2 times per calendar year. The chairperson or the president of the Board, or their respective designees, may call a meeting of the committee.

F. The Board may assign additional duties to the committee.

R4-11-608 Dental Hygiene Consultants

After submission of a current curriculum vitae or resume and approval by the Board, dental hygiene consultants may:

1. Act as Western Regional Examining Board (WREB) examiners for the clinical portion of the dental hygiene examination;
2. Act as Western Regional Examining Board (WREB) examiners for the local anesthesia portion of the dental hygiene examination;
3. Participate in Board-related procedures, including clinical evaluations, investigation of complaints concerning infection control, insurance fraud, or the practice of supervised personnel, and any other procedures not directly related to evaluating a dentist's quality of care; and
4. Participate in on-site office evaluations for infection control, as part of a team.

ARTICLE ~~5.~~ 7. ~~REGULATION OF~~ DENTAL ASSISTANTS

~~R4-11-501. Definitions~~

~~A. "Dental assistant" means any person who acts as a assistant to a dentist in rendering personal services to a patient involving close physical proximity to the patient while under treatment, undergoing diagnostic procedures, or under observation.~~

~~B. "Direct supervision and control" means that a licensed dentist must be physically present in the operatory and actually performing principal services.~~

~~C. "Personal supervision" means the dentist must be present in the office and must see the patient and assign the work to be done. The dentist is available to check the work as it progresses and must approve the completed work.~~

~~R4-11-502.~~ R4-11-701.~~Duties~~ Procedures and Functions of a dental assistant under supervision

A. A dental assistant may ~~do and~~ perform the following ~~acts and duties~~ procedures and functions under the direct supervision ~~and control~~ of a licensed dentist~~, which licensed dentist shall be personally and professionally responsible and liable for any and all consequences or results arising from the performance of said acts and duties~~:

~~1. Retract a patient's cheek, tongue, or other parts of tissues during a dental operation; assist with the placement or removal of a rubber dam and accessories used for its placement and retention, as directed by an operating dentist during the course of a dental operation; remove such debris as is normally created and accumulated during or after dental procedures by the dentist by use of vacuum devices, compressed air, mouthwashes, and water; provide any assistance, including the placement of material in a patient's oral cavity in response to a specific direction to do so by a licensed dentist who is then and there actually engaged in performing a dental operation and who is then actually in a position to give direct supervision to the rendition of such assistance.~~

1. Place dental material into a patient's mouth in response to a licensed dentist's instruction;
2. Cleanse the supragingival surface of the tooth in preparation for:
   a. The placement of bands, crowns and restorations;
   b. Dental dam application;
   c. Acid etch procedures; and
   d. Removal of dressings and packs;
3. Remove excess cement from inlays, crowns, bridges and orthodontic appliances with hand instruments;
4. Remove temporary cement, interim restorations, and periodontal dressings with hand instruments;
5. Remove sutures;
6. Place and remove dental dams and matrix bands;
7. Fabricate and place interim restorations with temporary cement;
8. Apply sealants;
9. Apply topical fluorides;
10. Prepare a patient for nitrous oxide and oxygen analgesia administration upon the direct instruction and presence of a dentist; and
11. Observe a patient during nitrous oxide and oxygen analgesia as instructed by the dentist.

B. A dental assistant may ~~do and~~ perform the following ~~acts and duties~~ procedures and functions under the ~~personal~~ general supervision of a licensed dentist ~~and the direct supervision and control of a licensed dental hygienist. The licensed dentist shall be personally and professionally responsible and liable for any and all consequences or results arising from the performance of said acts and duties~~:

~~1. Retract a patient's cheek, tongue, or other parts of tissues during a dental operation; remove such debris as is normally created and accumulated during the course of treatment being rendered by a licensed dental hygienist during or after operative procedures by the hygienist by the use of vacuum devices, compressed air, mouthwashes, and water; provide any assistance to a licensed dental hygienist who is then and there actually in a position to give direct supervision to the rendition of such assistance.~~

1. Train or instruct patients in oral hygiene techniques, preventive procedures, dietary counseling for caries and plaque control, and provide pre- and post-operative instructions relative to specific office treatment;
2. Collect and record information pertaining to extraoral conditions; and
3. Collect and record information pertaining to existing intraoral conditions.

~~C. Under personal supervision the dental assistant may:~~

~~1. With proper instruction from a dentist or hygienist, train or instruct patients in techniques of oral hygiene, preventive procedures, dietary counseling for caries and plaque control, pre- and post-operative instructions relative to specific office treatments that have been or are to be performed.~~

~~2. Apply fluorides under the personal supervision and direction of a dentist or dental hygienist. A dental assistant may not perform any of the prophylaxis procedures.~~

~~R4-11-503. Radiographic duties~~

~~A dental assistant may expose radiographs for dental diagnostic purposes, only under the personal supervision of the dentist and after completing a course in radiography or passing a challenge exam approved by the Arizona State Board of Dental Examiners. Enforcement shall commence one year from adoption.~~

~~R4-11-504.~~ R4-11-702. **Limitations on Duties of Dental Assistants**

~~Dental assistants are expressly prohibited from performing the~~ A dental assistant shall not perform the following ~~duties~~:

1. ~~Performance of duties of dental hygienists except that the assistant may remove excess cement from inlays, crowns, bridges and orthodontic appliances;~~ A procedure which by law only licensed dentists, licensed dental hygienists or certified denturists can perform;
2. ~~The administration of nitrous oxide and oxygen analgesia without the dentist present in the operatory;~~
   a. ~~Administration as used in this context shall mean the initial introduction of nitrous oxide and oxygen to the patient to an established safe plane of analgesia. Remaining procedures shall be conducted under personal supervision.~~
3. ~~2.~~ ~~Placement, adjustment, or intraoral carving~~ Intraoral carvings of dental restorations or prostheses;
4. ~~3.~~ Final jaw registrations;
5. ~~4.~~ Taking final impressions for any activating orthodontic appliance, ~~permanent~~ fixed or removable prosthesis ~~or tooth restoration.~~ ;
6. ~~5.~~ ~~Activate~~ Activating orthodontic appliances; and
7. ~~Adjusting any orthodontic activating appliance or fixed or removable prosthesis;~~
8. ~~The performance of any procedure considered irreversible. The Board of Dental Examiners shall be the sole determiner of what constitutes an irreversible procedure based upon generally accepted definitions currently in effect.~~
6. ~~An irreversible procedure.~~

ARTICLE ~~12.~~ 8. REGULATION OF DENTURISTS

~~R4-11-1201.~~ R4-11-801. **Consultants to the Board**

A. No change.
B. No change.
C. No change.

~~R4-11-1202.~~ R4-11-802. **Recognition of schools of denture technology**

A. The Board shall use the criteria ~~for recognition of schools of Denture Technology shall be that listed~~ in ~~rules R4-11-101 through R4-11-103~~ Article 2 to determine whether to recognize a denture technology school.
B. No change.

ARTICLE ~~10.~~ 9. RESTRICTED PERMITS

~~R4-11-1001.~~ R4-11-901. **Application for restricted permit**
No change.

~~R4-11-1002.~~ R4-11-902. **Issuance of a restricted permit**
No change.

~~R4-11-1003.~~ R4-11-903. **Recognition of a charitable dental clinic or organization**

~~The findings required by rule R4-11-1002 shall be based upon investigation by the Board, including review of the employment contract of such charitable clinic or organization for restricted permit holders, the Articles and Bylaws of such charitable dental clinic or organization, and any books, records or accounts of such dental clinic or organization which, in the Board's opinion are necessary to make the findings required under A.R.S. §§ 32-1237 and 32-1239. If the Board is unable to confirm the information required by statute it may request of the clinic or organization such other additional information as it determines necessary.~~

In order for the Board to make the findings required in R4-11-902, the charitable clinic or organization shall provide information to the Board, such as employment contracts with restricted permit holders, Articles and Bylaws, and financial records.

~~R4-11-1004.~~ R4-11-904. **Determination of minimum rate**
No change.

~~R4-11-1005.~~ R4-11-905. **Restricted permit denial**
No change.

ARTICLE ~~6.~~ 10. REGULATION OF DENTAL ~~TECHNICIAN~~ TECHNICIANS

~~R4-11-601. Definitions~~

~~"Dental technician" means any person, other than a licensed dentist, who fabricates artificial teeth, prosthetic appliances or other mechanical and artificial contrivances designed to correct or alleviate injuries or defects (both developmental or acquired), disorders or deficiencies of the human oral cavity, teeth, investing tissue, maxilla or mandible, or adjacent associated structures.~~

~~R4-11-602.~~ R4-11-1001. **Duties of dental laboratory technician**
No change.

~~R4-11-603.~~ R4-11-1002. ~~**Regulations relative to activities of dental**~~ **Dental technician laboratory work order**

A. ~~A duplicate copy of each such work order issued by the dentist shall be retained by the dentist for not less than two years~~ A dentist shall retain a copy of a dental technician laboratory work order for at least 2 years from date of issuance.
B. ~~The original of each such work order issued shall be retained by the technician to whom it was issued for not less than one year~~ A dental laboratory technician shall retain an original laboratory work order for at least 1 year from date of issuance.
C. No change.

ARTICLE 11. ADVERTISING

R4-11-1101. **Advertising**

A. A dentist may advertise as a specialist or use the terms "specialty" or "specialist" to describe professional services only if the dentist practices in 1 of the specialty areas listed below, is recognized by the specialty board which certifies specialists for that area, and is accredited by the Commission on Dental Accreditation of the American Dental Association:
   1. Endodontics,
   2. Oral and maxillofacial surgery,
   3. Orthodontics and dentofacial orthopedics,
   4. Pediatric dentistry,
   5. Periodontics,
   6. Prosthodontics,
   7. Dental Public Health, or
   8. Oral Pathology.

B. For purposes of this Article, a dentist who wishes to advertise as a specialist in a recognized field shall meet the criteria in 1 or more of the following categories:
   1. Grandfathered: A dentist who declared a specialty area before December 31, 1964, according to requirements established by the American Dental Association, and has a practice limited to a dentistry area approved by the American Dental Association.
   2. Educationally qualified: A dentist who has successfully completed an educational program, 2 or more years long, in a specialty area accredited by the Commission on Dental Accreditation of the American Dental Associ-

ation, as specified by the Council on Dental Education of the American Dental Association.

3. Board eligible: A dentist who has met the guidelines of an established specialty board in a recognized specialty area that operates in accordance with the requirements established by the American Dental Association. The specialty board shall have established examination requirements and standards, appraised an applicant's qualifications, administered comprehensive examinations and issued a certificate to a dentist who has achieved diplomate status.
4. Board certified: A dentist who has met the requirements of a specialty board referenced in subsection (B)(3), and who has received a certificate from the speciality board, indicating the dentist has achieved diplomate status.

C. A dentist, dental hygienist, or denturist whose advertising implies that services rendered in a dental office are of a specialty area other than those listed in subsection (A), and recognized by a specialty board which has been accredited by the Commission on Dental Accreditation of the American Dental Association, has violated this Article and A.R.S. § 32-1201(18)(u), and is subject to discipline pursuant to A.R.S. § 32-1201 et seq.

D. A dentist may advertise specific dental services or certification in a non-specialty area only if the advertisement includes the phrase "Services provided by an Arizona licensed general dentist." A dental hygienist may advertise specific dental hygiene services only if the advertisement includes the phrase "Services provided by an Arizona licensed dental hygienist." A denturist may advertise specific denture services only if the advertisement includes the phrase "Services provided by an Arizona certified denturist."

ARTICLE ~~14.~~ 12. CONTINUING DENTAL EDUCATION

~~**R4-11-1401. Definitions**~~

~~In this Article, unless the context otherwise requires:~~

~~1. "Recognized continuing dental education" means a program whose content directly relates to the art and science of oral health and treatment and is provided by a recognized dental school as defined at A.R.S. § 32-1201(15), recognized dental hygiene school as defined at A.R.S. § 32-1201(14), or recognized school of denture technology as defined at A.R.S. § 32-1201(16) or is sponsored by a national or state dental, dental hygiene, or denturist association, dental, dental hygiene, or denturist study club, governmental agency, or commercial dental supplier.~~
~~2. "Documentation of attendance" means a document containing the following:~~
~~a. Name of sponsoring entity,~~
~~b. Course title and synopsis,~~
~~c. Number of hours of credit claimed,~~
~~d. Name of speaker or lecturer,~~
~~e. Date, time, and location of course, and~~
~~f. Verification of registration.~~
3. "Licensee" means any dentist, dental hygienist, or individual who holds a restricted permit to practice dentistry in this state pursuant to A.R.S. § 32-1237.
4. "Certificate holder" means a denturist who practices denture technology pursuant to A.R.S. § 32-1293 et seq.
~~5. "Credit hour" shall be equal to one clock hour of participation in a recognized continuing dental education program.~~

~~**R4-11-1402.**~~ **R4-11-1201. Continuing Dental Education**

A. No change.
B. No change.
C. A licensee or certificate holder receiving an initial license or certificate shall complete the prescribed credit hours of recognized continuing dental education upon completion of the first full triennial period.

~~**R4-11-1403.**~~ **R4-11-1202. Compliance with Continuing Dental Education Requirements**

A. No change.
B. No change.
C. No change.
D. No change.
E. No change.
F. No change.
G. No change.
H. No change.
I. No change.

~~**R4-11-1404.**~~ **R4-11-1203. Continuing Dental Education Requirements for Dentists**

~~Dentists~~ A dentist shall complete 72 hours of recognized continuing dental education in a triennial period as follows:

1. At least 45 credit hours of recognized continuing dental education shall be in ~~one~~ 1 or more of the following areas: Dental and medical health, cardiopulmonary resuscitation, preventative services, dental diagnosis and treatment planning, dental clinical procedures, including courses in corrective and restorative oral health and basic dental sciences which may include current research, new concepts in dentistry, and behavioral and biological sciences which are oriented to dentistry. A licensee who holds a permit to administer anesthesia, semiconscious sedation, or conscious sedation who is required to obtain continuing education pursuant to ~~R4-11-805~~ Article 13 may apply those credit hours to this requirement.
2. No more than 18 credit hours of recognized continuing dental education shall be in the following areas: Dental practice organization and management, patient management skills, and methods of health care delivery.
3. At least ~~three~~ 3 credit hours of recognized continuing dental education shall be in the area of chemical dependency.
4. At least ~~six~~ 6 credit hours of recognized continuing dental education shall be in the area of infectious diseases and infectious disease control.
5. ~~Credit~~ The Board may apply credit hours earned by a licensee in continuing education ordered by the Board pursuant to ~~A.R.S. § 32-1263.01(A)(8) may be applied to the~~ A.R.S. § 32-1201 et seq. toward a licensee's 72-hour requirement.

~~**R4-11-1405.**~~ **R4-11-1204. Continuing Dental Education Requirements for Dental Hygienists**

~~Dental hygienists~~ A dental hygienist shall complete 54 credit hours of recognized continuing dental education in a triennial period as follows:

1. At least 34 credit hours of recognized continuing dental education shall be in ~~one~~ 1 or more of the following areas: Dental and medical health, cardiopulmonary resuscitation, and dental hygiene services, which may include periodontal disease, care of implants, maintenance of cosmetic restorations and sealants, radiology safety and techniques, and new concepts in dental hygiene.
2. No more than 14 credit hours of recognized continuing dental education shall be in ~~one~~ 1 or more of the follow-

ing areas: Dental hygiene practice organization and management, patient management skills, and methods of health care delivery.

3. At least ~~two~~ 2 credit hours of recognized continuing dental education shall be in the area of chemical dependency.
4. At least ~~four~~ 4 credit hours of recognized continuing dental education shall be in the area of infectious diseases and infectious disease control.
5. ~~Credit~~ The Board may apply credit hours earned by a licensee in continuing education ordered by the Board pursuant to ~~A.R.S. § 32-1263.01(A)(8) may be applied to the~~ A.R.S. § 32-1201 et seq. toward a licensee's 54-hour requirement.

~~R4-11-1406.~~ R4-11-1205.Continuing Dental Education Requirements for Denturists

Denturists shall complete 24 credit hours of recognized continuing dental education in a triennial period as follows:

1. At least 15 credit hours of recognized continuing dental education shall be in 1 or more of the following areas: Medical and dental health, cardiopulmonary resuscitation, laboratory procedures, and clinical procedures.
2. No more than 6 credit hours of recognized continuing dental education may be in 1 or more of the following areas: Denturist practice organization and management, patient management skills, and methods of health care delivery.
3. At least 1 credit hour of recognized continuing dental education shall be in the area of chemical dependency.
4. At least 2 credit hours of recognized continuing dental education shall be in the area of infectious diseases and infectious disease control.
5. The Board may apply credit hours earned by a certificate holder in continuing education ordered by the Board pursuant to A.R.S. § 32-1201 et seq. toward a certificate holder's 24-hour requirement.

~~R4-11-1407.~~ R4-11-1206.Continuing Dental Education Requirements for Restricted Permit Holders

A ~~licensee holding a~~ restricted permit holder shall comply with the requirements in ~~R4-11-1403~~ R4-11-1202 except as indicated below:

1. When applying for a renewal ~~license~~ pursuant to A.R.S. § 32-1238, the licensee shall ~~certify to the Board completion of~~ provide information to the Board that the licensee has completed 24 credit hours of recognized continuing dental education yearly.
2. Each renewal application ~~for renewal must be accompanied by~~ shall include a written affidavit affirming the licensee's completion of 24 credit hours of recognized continuing dental education. The affidavit shall include a licensee's name, license number, name of sponsor, program title and description, date, time, and location of the program, and dates of attendance.
3. ~~Only~~ To determine whether to grant the renewal, the Board shall only consider recognized continuing dental education credits accrued ~~during the period of~~ between July 1 ~~to~~ and June 30 ~~of the year immediately prior to renewal shall be considered for restricted permit renewal~~ immediately before the licensee submitted the renewal application.
4. ~~Each licensee holding a~~ A restricted permit holder shall maintain ~~and preserve~~ documentation of attendance for each program for which credit is claimed. ~~Such~~ The documentation shall verify the recognized continuing dental education credits in which the licensee has participated during the preceding ~~two~~ 2 renewal periods.
5. ~~Each licensee holding a~~ A restricted permit holder shall complete 24 hours of recognized continuing dental education prior to renewal as follows:
   a. At least 15 credit hours of recognized continuing dental education shall be in ~~one~~ 1 or more of the subjects enumerated in ~~R4-11-1404(1)~~ R4-11-1203(1).
   b. No more than ~~six~~ 6 credit hours of recognized continuing dental education may be in ~~one~~ 1 or more of the subjects enumerated in ~~R4-11-1404(2)~~ R4-11-1203(2).
   c. At least ~~one~~ 1 credit hour of recognized continuing dental education shall be in the subjects enumerated in ~~R4-11-1404(3)~~ R4-11-1203(3).
   d. At least ~~two~~ 2 credit hours of recognized continuing dental education shall be in the subjects enumerated in ~~R4-11-1404(4)~~ R4-11-1203(4).
   e. ~~Credit~~ The Board may apply credit hours earned by a licensee in continuing education ordered by the Board pursuant to ~~A.R.S. § 32-1263.01(A)(8) may be applied to the~~ A.R.S. § 32-1201 et seq. toward a licensee's 24-hour requirement.

~~R4-11-1408.~~ R4-11-1207.Types of Courses

No change.

~~R4-11-1409. Implementation of Continuing Dental Education Rules~~

~~Upon adoption of these rules, licensees and certificate holders shall comply in accordance with the following schedule:~~

~~1. A licensee or certificate holder whose license or certificate is renewable in less than 12 months from the effective date of these rules is exempt from recognized continuing dental education requirements for the period prior to renewal.~~
~~2. A licensee or certificate holder whose triennial license or certificate is renewable within 12 to 24 months from the effective date of these rules shall complete 24 credit hours for a dentist, 18 credit hours for a dental hygienist, and eight credit hours for a denturist of recognized continuing dental education for the period prior to renewal.~~
~~3. A licensee or certificate holder whose triennial license or certificate is renewable within 24 to 36 months from the effective date of these rules shall complete 48 credit hours for a dentist, 36 credit hours for a dental hygienist, and 16 credit hours for a denturist of recognized continuing dental education for the period prior to renewal.~~
~~4. Thereafter all licensees and certificate holders shall fully comply with the prescribed credit hours of recognized continuing dental education prior to each renewal.~~
~~5. A licensee or certificate holder receiving an initial license or certificate shall complete the prescribed credit hours of recognized continuing dental education upon completion of the first full triennial period.~~

ARTICLE ~~8.~~ 13. GENERAL ANESTHESIA, CONSCIOUS SEDATION

~~R4-11-801. Definitions~~

~~In this Article, the following definitions apply:~~

~~1. "Analgesia" means a state of decreased sensibility to pain produced by using nitrous oxide (N_2O) and oxygen (O_2) with or without local anesthesia.~~

~~2. "Conscious sedation" means the use of pharmacologic or non-pharmacologic methods, or a combination thereof which results in the minimal depression of the level of consciousness which maintains the ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command.~~

~~a. "IV/IM conscious sedation" means the parenteral use of any drug, element or material to produce conscious sedation.~~

~~b. "Oral or rectal conscious sedation" means the oral or rectal use of any drug, element or material to produce conscious sedation.~~

3. "Designee" means the individual identified by the Board, to whom the Board has delegated authority to act on its behalf in a particular task specified by these rules.

~~4. "Direct supervision" means that a licensed dentist must be physically present in the operatory and actually performing principal services.~~

~~5. "General anesthesia" means the use of any drug, element, or any other material which results in the elimination of sensations, accompanied by a state of unconsciousness.~~

~~6. "Nurse anesthetist" means a licensed nurse with special training in all phases of anesthesia.~~

~~7. "Semi-conscious sedation" means the use of any drug, element, or any other material which results in the relaxation, diminution, or loss of sensation, with the retention of full reflex activity, including the capability of maintaining and protecting the airway, spontaneous breathing ability with adequate ventilation, but impaired or lack of ability to respond adequately to physical stimulation or verbal command.~~

~~8. "Section 802 permit" means a permit to administer general anesthesia and semi-conscious sedation, pursuant to R4-11-802.~~

~~9. "Section 803 permit" means a permit to administer conscious sedation, pursuant to R4-11-803.~~

~~R4-11-802~~ R4-11-1301. General anesthesia and semi-conscious sedation

A. ~~In order to~~ To administer general anesthesia by any means, or semi-conscious sedation by intravenous or intramuscular means, on an outpatient basis, a dentist shall possess a permit to administer general anesthesia and semi-conscious sedation (~~hereinafter a~~ "Section ~~802~~ 1301 permit") issued by the ~~board~~ Board. ~~Such~~ A Section ~~802~~ 1301 permit shall be renewed every ~~three~~ 3 years by complying with ~~R4-11-806~~ R4-11-1305.

B. ~~In order to~~ To obtain or renew a Section ~~802~~ 1301 permit, ~~the~~ a dentist shall:

1. Apply to the ~~board~~ Board on the prescribed application form available from the ~~board~~ Board office. The application form shall require information ~~as to each of the conditions for issuance and renewal of~~ about each requirement to issue and renew a Section ~~802~~ 1301 permit, as specified in subsections (B)(2) and (3) ~~of this section~~, and ~~R4-11-806~~ R4-11-1305.
   a. The application form shall require general information about the applicant ~~including~~ such as: name; home and office addresses and telephone numbers; limitations of practice; hospital affiliations; denial, curtailment, revocation, or suspension of hospital privileges; and denial of membership in, or renewal of membership in, or disciplinary action by any dental regulatory body or dental organization.
   b. The application form shall require the dentist to sign an affidavit stating that information provided is true, and that the dentist has read and is compliant with ~~the Laws and Rules of the Arizona State Board of Dental Examiners and is in compliance with them~~ the Board's laws and rules. The dentist shall return the completed form to the ~~board~~ Board office. ~~;~~
2. Produce evidence that the dentist:
   a. Will administer general anesthesia and semi-conscious sedation in a facility ~~or facilities~~ containing the following properly operating equipment and supplies: anesthesia or analgesia machine; emergency drugs; electrocardiograph monitor; pulse oximeter; cardiac defibrillator; positive pressure oxygen; suction; laryngoscope and blades; endotracheal tubes; Magill forceps, oral airways; stethoscope and blood pressure monitoring device; ~~and~~
   b. Has a supervised team of auxiliary personnel for each facility in which the dentist will administer general anesthesia and semi-conscious sedation. ~~The teams~~ A team shall be capable of handling procedures, problems, and emergency incidents. All team members shall hold a current certification in basic cardiopulmonary resuscitation (CPR) annually; ~~and~~
   c. Holds a valid license to practice dentistry in Arizona; ~~and~~
   d. Maintains a current permit to prescribe and administer controlled substances in Arizona issued by the United States Drug Enforcement Administration; and
   e. Has passed a course approved by the American Heart Association or the American Red Cross on advanced cardiac life support (ACLS) within the ~~two~~ 2 years ~~previous to application for permit under this Article~~ before submitting the permit application; and
3. Meets ~~one~~ 1 or more of the following conditions:
   a. Has completed ~~a minimum of one year's advanced~~ at least 1 year of training in anesthesiology or related academic subjects, ~~or its equivalent~~ beyond the undergraduate dental school level in a training program ~~as~~ described in ~~R4-11-805(A)~~ R4-11-1304(A), ~~which is~~ offered by a hospital accredited by the Joint Commission of Accreditation of Hospitals Organization, or sponsored by a university accredited by the American Dental Association Commission on Dental Accreditation; ~~or~~
   b. Is a Diplomate of the American Board of Oral and Maxillofacial Surgeons, or is eligible for examination by the American Board of Oral and Maxillofacial surgeons, or is a Fellow of the American Association of Oral and Maxillofacial surgeons, or is a Fellow of the American Dental Society of Anesthesiology or is eligible for examination by the American Dental Society of Anesthesiology; or
   c. Employs or works ~~in conjunction~~ with a licensed medical or osteopathic physician who is a member of the anesthesiology staff of an accredited hospital in Arizona ~~provided that such~~ and the anesthesiologist ~~shall remain on the premises of the~~ remains on the dental facility premises until any patient given general anesthetic or semi-conscious sedation regains consciousness and is discharged.

C. ~~Upon receipt by the Board office of~~ After submitting the application and written evidence of compliance with requirements outlined in ~~R4-11-802(B)~~ subsection (B) to the Board, the dentist shall ~~arrange with the board to~~ schedule an on-site evaluation ~~of each facility~~ by the Board in which the dentist ~~will~~ shall administer general anesthesia and semi-conscious sedation. ~~Upon successful completion of the on-site evaluations, the dentist shall be notified in writing, and receive a Section 802 permit.~~ After a dentist completes the application requirements and successfully completes the on-site evaluation, the Board shall issue the dentist a 1301 permit.

1. The on-site evaluation team shall be ~~conducted by an evaluation team comprised of two~~ 2 dentists who are Board members ~~of the board~~, or ~~who are~~ Board designees ~~of the board~~. The on-site evaluation ~~of the dentist's first or only facility~~ shall ~~consist of~~ determine the following:
   a. ~~Successful demonstration of the~~ The availability of equipment and personnel by the dentist, pursuant to ~~R4-11-802(B)(2)~~ this Article;
   b. Proper administration of general anesthesia or parenteral semi-conscious sedation to a patient by the dentist ~~in the presence of~~ before the evaluation team~~.~~ ; and
   c. Successful responses to oral examination questions, ~~which shall include questions concerning~~ about patient management, medical emergencies, and emergency medications.
2. The on-site evaluation of ~~the dentist's~~ a subsequent facility in which general anesthesia is administered shall consist of the elements described in Subsection C(1)(a) ~~of this Section~~ only~~.~~ as verified by an affidavit.

D. ~~The~~ A dentist shall keep an anesthesia record for each general anesthesia and semi-conscious sedation administered.

1. The record shall include the following entries: pre-and ~~postoperative~~ post-operative electrocardiograph reports; pre-, post- and intra-operative pulse oximeter readings; blood pressure and vital signs; intraoperative blood pressures; and list all medications given, with dosage and time intervals.
2. The record may include the following entries: route and site of administration; type of catheter or portal with gauge; nothing by mouth or last intake noted; consent form; time of discharge and status, including name of escort.

E. A dentist, who has obtained a Section ~~802~~ 1301 permit ~~under this Article~~ to administer general anesthesia and semi-conscious sedation, may employ a nurse anesthetist to administer general anesthesia and semi-conscious sedation under ~~the~~ direct supervision ~~of the dentist~~.

~~F. Each dentist who has been approved by the board to use general anesthesia or semi-conscious sedation prior to the date of adoption of this Article, or has been using general anesthesia or semi-conscious sedation in another state, shall make application on the prescribed form to the board to continue to use and employ general anesthesia and semi-conscious sedation. If the dentist meets the requirements of this Article, to include successful completion of on-site evaluations, a Section 802 permit shall be issued.~~

~~G.~~F. A dentist who has obtained a Section ~~802~~ 1301 permit ~~under this Article~~ shall also be authorized to administer conscious sedation without obtaining a ~~separate~~ Section ~~803~~ 1302 permit.

~~R4-11-803~~ R4-11-1302. Conscious Sedation

A. A dentist who possesses a Section ~~802~~ 1301 permit is also authorized to administer conscious sedation. ~~In order to~~ To administer conscious sedation by intravenous or intramuscular means on an outpatient basis, a dentist who does not possess a Section ~~802~~ 1301 permit shall possess a permit to administer conscious sedation (~~hereinafter,~~ "Section ~~803~~ 1302 permit") issued by the ~~board~~ Board. The Section ~~803~~ 1302 permit shall be renewed every ~~three~~ 3 years by complying with ~~R4-11-806~~ R4-11-1305.

B. ~~In order to~~ To obtain or renew a Section ~~803~~ 1302 permit, the dentist shall:

1. Apply to the ~~board~~ Board on the prescribed application form available from the Board office. The application form shall require information ~~as to each of the conditions for issuance and renewal of~~ regarding the requirements to obtain and renew a Section ~~803~~ 1302 permit, as specified in subsections (B)(2) and (3) ~~of this section~~ and ~~R4-11-806~~ R4-11-1305.
   a. The application form shall require general information about the applicant ~~including~~ such as: name; home and office addresses and telephone numbers; limitations of practice; hospital affiliations; denial, curtailment, revocation, or suspension of hospital privileges; and denial of membership in, or renewal of membership in, or disciplinary action by any dental regulatory body or dental organization.
   b. The application form shall require the dentist to sign an affidavit stating that information provided is true, and that the dentist has read ~~the Laws and Rules of the Arizona State Board of Dental Examiners and is in compliance with them~~ and is compliant with the Board's laws and rules. The dentist shall return the completed form to the ~~board~~ Board office~~.~~ ; and
2. Produce evidence that the dentist:
   a. Will administer conscious sedation intravenously or intramuscularly in a facility ~~or facilities~~ containing the following properly operating equipment and supplies: emergency ~~drug kit~~ drugs; positive pressure oxygen; stethoscope; suction; nasopharyngeal tubes; pulse oximeter; oropharyngeal tubes; and, blood pressure monitoring device; ~~and~~
   b. Maintains a staff of supervised personnel capable of handling procedures, complications and emergency incidents ~~thereto~~ for each facility in which the dentist will administer conscious sedation. At least ~~one~~ 1 staff member, present during the procedure, shall be certified in basic cardiac life support (CPR) annually; ~~and~~
   c. Holds a valid license to practice dentistry in Arizona; ~~and~~
   d. Maintains a current permit to prescribe and administer controlled substances in Arizona issued by the United States Drug Enforcement Administration; ~~and~~
   e. Has passed a course approved by the American Heart Association or the American Red Cross on advanced cardiac life support (ACLS) within the ~~two~~ 2 years ~~previous to application for permit under this Article~~ before submitting the permit application; and
   f. Has participated in 60 clock hours of Board approved undergraduate, graduate or postgraduate education within the ~~last three~~ 3 years before sub-

mitting the permit application, which includes training in basic conscious sedation, including administration of parenteral sedative medications to at least 10 patients; physical evaluation, management of medical emergencies, monitoring and the use of monitoring equipment.

C. ~~Upon receipt by the Board office of~~ After submitting the application and written evidence of compliance with requirements outlined in ~~R4-11-803(B)~~ subsection (B) to the Board, the dentist shall ~~arrange with the board to~~ schedule an on-site evaluation ~~of each facility~~ by the Board in which the dentist ~~will~~ shall administer conscious sedation. ~~Upon successful completion of the on-site evaluation, the dentist shall be notified in writing, and receive a Section 803 permit to administer conscious sedation.~~ After a dentist completes the application requirements and successfully completes the on-site evaluation, the Board shall issue the dentist a 1302 permit.

1. The on-site evaluation ~~shall be conducted by an evaluation team comprised of two~~ team shall be 2 dentists who are Board members ~~of the board~~, or ~~who are~~ Board designees ~~of the Board~~. ~~On-site~~ The on-site evaluation ~~of the dentist's first or only facility~~ shall ~~consist of~~ determine the following:
   a. ~~Successful demonstration of the~~ The availability of equipment and personnel ~~by the dentist~~ pursuant to ~~R4-11-803(B)(2).~~ subsection (B)(2);
   b. Proper administration of conscious sedation to a patient by the dentist ~~in the presence of~~ before the evaluation team~~.~~ ; and
   c. Successful responses to oral examination questions, ~~which shall include questions concerning~~ about patient management, medical emergencies, and emergency medications.
2. The on-site evaluation ~~of the dentist's second and each~~ team's evaluation of any subsequent facility in which conscious sedation is administered shall consist of the elements described in Subsection (C)(1)(a) ~~of this Section~~ only, as verified by an affidavit.

D. ~~The~~ A dentist shall keep an anesthesia record for each conscious sedation administered.

1. The record shall include the following entries: pre-, post- and intra-operative pulse oximeter readings; pre- and postoperative blood pressure and vital signs; intra-operative blood pressures; list of all medications given, with dosage and time intervals~~;~~ .
2. The record may include the following entries: pre- and ~~postoperative~~ post-operative electrocardiograph report; route and site of administration; type of catheter or portal with gauge; nothing by mouth or last intake noted; consent form; time of discharge and status, including name of escort.

E. A dentist who has obtained a Section ~~803~~ 1302 permit ~~under this Article~~ to administer conscious sedation, may employ a nurse anesthetist to administer conscious sedation under ~~the~~ direct supervision ~~of the dentist~~.

~~F. Each dentist who has been approved by the board to administer conscious sedation prior to the date of this Article, or has been using conscious sedation in another state, shall make application on the prescribed form to the board to continue to use and employ conscious sedation. If the dentist meets the requirements of this Article, to include successful completion of on-site evaluations, a Section 803 permit shall be issued.~~

~~R4-11-804.~~ R4-11-1303. Reports of adverse occurrences

If a ~~mortality~~ death, or ~~other~~ incident causing a patient temporary or permanent physical or mental injury or requiring medical intervention, occurs in ~~a dental~~ an outpatient facility ~~occurs~~ as a direct result of the administration of general anesthesia, semi-conscious sedation or conscious sedation ~~and causes a temporary or permanent physical or mental injury of patients, or requires the transport of the patient to any hospital or emergency medical facilities, or requires the call of a paramedic unit, the dentist(s),~~ the permit holder and the treating dentist involved ~~must~~ shall submit a complete report of the incident to the Board within ~~ten~~ 10 days after its occurrence.

~~R4-11-805~~ R4-11-1304. Educational Requirements

A. ~~In order to~~ To obtain a Section ~~802~~ 1301 permit, by satisfying the educational requirement of ~~R4-11-802(B)(3)(a)~~ R4-11-1301, a dentist shall successfully complete an advanced education program (postgraduate or graduate) in pain control.

1. The program shall include instruction in the following subject areas:
   a. Anatomy and physiology of the human body and its response to the various pharmacologic agents used in pain control~~.~~ ;
   b. Physiological ~~and/or~~ and psychological risks for the use of various modalities of pain control~~.~~ ;
   c. Psychological ~~and/or~~ and physiological need for various forms of pain control and ~~their~~ the potential response to pain control procedures~~.~~ ;
   d. Techniques of local anesthesia, sedation, and general anesthesia ~~as well as in~~ , and psychological management and behavior modification, as they relate to pain control in dentistry~~.~~ ; and
   e. Handling emergencies and complications related to pain control procedures, including the maintenance of respiration and circulation, immediate establishment of an airway, and cardiopulmonary resuscitation.
2. The program shall consist of didactic ~~as well as~~ and clinical training. The didactic component of the program shall be the same for all dentists, ~~regardless of whether they will be~~ general practitioners or specialists. The didactic component shall include each subject area listed in Subsection (A)(1) ~~of this section~~.
3. The ~~trainee~~ dentist shall receive at least ~~one~~ 1 calendar year of training.

B. ~~In order to~~ To maintain a Section ~~802 or Section 803~~ 1301 or 1302 permit pursuant to ~~R4-11-802 or R4-11-803~~ R4-11-1301 or R4-11-1301, a dentist shall participate in 12 clock hours of continuing education every ~~three~~ 3 years. The education shall be in one or more of the following areas: general anesthesia; conscious sedation; physical evaluation; medical emergencies; monitoring and use of monitoring equipment; or pharmacology of utilized drugs and agents. In addition to these 12 hours, the dentist shall pass a course approved by the American Heart Association or American Red Cross on advanced cardiac life support (ACLS), at intervals described in ~~R4-11-802(B)(2)(e) and R4-11-803(B)(2)(e)~~ R4-11-1301(B)(2)(e) and R4-11-1302(B)(2)(e).

~~R4-11-806~~ R4-11-1305. Renewal of Permit

A. ~~In order to obtain renewal of~~ To renew a Section ~~802 or Section 803~~ 1301 or 1302 permit before December 31 of every third year, ~~the~~ a dentist shall provide written documentation of compliance with continuing education requirements, as prescribed by ~~R4-11-805(B)~~ Article 13 by submitting the application form to the Board described in ~~R4-11-802(B)(1)~~

~~and R4-11-803(B)(1)~~ Article 13. Not less than 90 days prior to expiration of ~~the~~ a dentist's current permit, the dentist shall arrange for a new on-site evaluation ~~or evaluations~~ as described in ~~R4-11-802(C) and R4-11-803(C)~~ Article 13. ~~Upon successful completion of the on-site evaluations~~ After a dentist has successfully completed the evaluation and submitted required affidavits, the ~~board~~ Board shall issue a renewal Section ~~802 or Section 803~~ 1301 or 1302 permit.

B. The Board may stagger ~~renewal according to an alphabetical division as prescribed by the Board in a manner that maintains a nearly equal yearly renewal~~ due dates for renewal applications.

ARTICLE 14. DISPENSING DRUGS AND DEVICES FOR PROFIT AND NOT FOR PROFIT

R4-11-1401. Registration and Renewal

A. A dentist who is currently licensed to practice dentistry in Arizona may dispense controlled substances, prescription-only drugs, and prescription-only devices for profit after providing the Board the following information:
   1. A completed registration form which includes the following information:
      a. The dentist's name and dental license number;
      b. A list of the types of drugs and devices to be dispensed for profit, including controlled substances; and
      c. Locations where the dentist desires to dispense the drugs and devices for profit; and
   2. A copy of the dentist's current Drug Enforcement Administration Certificate of Registration for each dispensing location from which the dentist desires to dispense the drugs and devices for profit.
   3. The Board shall issue a numbered certificate indicating the dentist is registered with the Board to dispense drugs and devices for profit.

B. A dentist shall renew a registration to dispense drugs and devices for profit by complying with the requirements in subsection (A) before the dentist's June 30 triennial license expiration date. When a dentist has made timely and complete application for the renewal of a registration, the dentist may continue to dispense until the Board approves or denies the application. Failure to renew a registration shall result in immediate loss of dispensing for profit privileges.

R4-11-1402. Prescribing

A. A prescription order shall contain, in addition to the requirements of A.R.S. §32-1298(C), the following information:
   1. Date of issuance;
   2. Name and address of the patient to whom the prescription has been issued;
   3. Name, strength, and quantity of the drug prescribed;
   4. Name and address of the dentist prescribing the medication; and
   5. Drug Enforcement Administration registration number of the dentist prescribing for controlled substances.

B. Before dispensing for profit, a dentist shall write a prescription for the drug or device being dispensed. If a dentist is not dispensing for profit, a prescription does not need to be written.

R4-11-1403. Labeling and Dispensing

A. A dentist shall include the following information on the label of all drugs and devices dispensed:
   1. The dentist's name, address, and telephone number;
   2. The serial number;
   3. The date the drug or device is dispensed;
   4. The patient's name;
   5. Name, strength and quantity of drug dispensed;
   6. The name of the drug manufacturer or distributor;
   7. Directions for use and cautionary statement necessary for the safe and effective use of the drug or device; and
   8. If a controlled substance is prescribed, the cautionary statement "Caution: Federal law prohibits the transfer of this drug to any person other than the patient for whom it was prescribed."

B. A dentist shall perform the following professional practices, in directly dispensing for profit a prescription medication or device from a prescription order:
   1. Verify the legalities and pharmaceutical feasibility of dispensing, including allergies, incompatibilities, unusual quantities of dangerous drugs or narcotics, and signature of the prescribing dentist;
   2. Verify that the dosage is within proper limits;
   3. Interpret the prescription order;
   4. Prepare the package and label, or assume responsibility, for the preparing, packaging, and labeling the medication or device to dispense individual prescription orders;
   5. Check the label to verify it precisely communicates the prescriber's directions and hand-initial every label;
   6. Record, or assume responsibility for the recording, of the serial number and the date dispensed on the front of the original prescription order; and
   7. Record on the original prescription order the name or initials of the dentist who dispensed the order.

C. Before delivery, the dentist shall prepare the drug or device to ensure compliance with the prescription and personally inform the patient of the name of the drug or device, directions for its use, precautions and storage requirements.

D. A dentist shall purchase all dispensed drugs and devices from a licensed manufacturer, distributor, or pharmacy.

R4-11-1404. Storage and Packaging

A. A dentist shall keep all drugs and devices secured in a locked cabinet or room, control access to the cabinet or room by written procedure, and maintain an ongoing inventory of the contents. The written procedure shall be made available to the Board or its authorized agents on demand for inspection or copying.

B. A dentist shall maintain storage rooms to not exceed a temperature of 85° Fahrenheit.

C. A dentist shall not dispense a drug or device that has expired or is improperly labeled.

D. A dentist shall not redispense a drug or device that has been returned.

E. A dentist shall dispense a drug or device:
   1. In a prepackaged container or light-resistant container with a consumer safety cap, unless the patient or patient's representative requests a non-safety cap; and
   2. With a label that is mechanically or electronically printed.

F. A dentist shall destroy controlled substances pursuant to the Drug Enforcement Administration regulations or by using a reverse distributor. A list of reverse distributors may be obtained from the Drug Enforcement Administration.

G. A dentist shall destroy an outdated, deteriorated or defective non-controlled substance drug or device by returning it to the supplier or using a reverse distributor. A list of reverse distributors may be obtained from the Drug Enforcement Administration.

R4-11-1405. Record Keeping

A. A dentist shall:

1. Chronologically date and sequentially number prescription orders in the order that the drugs or devices were originally dispensed,
2. Sequentially file orders separate from patient records, as follows:
   a. Schedule II drug orders shall be filed separately from all other prescription orders;
   b. Schedule III, IV, and V drug orders shall be filed separately from all other prescription orders; and
   c. All other prescription orders shall be filed separately from those stated in Subsections (A)(2)(a) and (b),
3. Reflect the name of the manufacturer or distributor of the drug or device dispensed, and
4. Reflect the name or initial of the dentist dispensing the drug or device.

B. A dentist shall record in the patient's dental record the name, form and strength of the drug or device dispensed, the quantity or volume dispensed, the date the drug or device is dispensed, and the dental therapeutic reasons for dispensing the drug or device, with respect to dispensing for profit and not for profit.

C. A dentist shall maintain purchase and dispensing records of all drugs and devices, for profit and not for profit, for 3 years from the date dispensed.

D. A dentist who dispenses drugs and devices, for profit and not for profit, shall inventory schedule II, III, IV, and V drugs as prescribed by federal law. A dentist shall perform a controlled substance inventory on March 1 annually, as directed by the Board, and at the opening or closing of a dental practice. A dentist shall maintain the inventory for 3 years from the inventory date. One inventory book may be used for all controlled substances. When recording Schedule II drugs, an exact count shall be done. When doing an inventory on bottles of 1,000 or less of Schedule III, IV, and V drugs, an estimate may be made.

E. A dentist shall maintain invoices, for drugs and devices dispensed for profit and not for profit, for 3 years from the date of the invoices, and filed as follows:
   1. Schedule II drug invoices shall be filed separately from all other records;
   2. Schedule III, IV, and V drugs shall be filed separately from all other record;, and
   3. All other invoices shall be filed separately from those referenced in Subsections (E)(1) and (2).

F. A dentist shall file Drug Enforcement Administration order forms, No. DEA 222, for controlled substances sequentially and separately from every other record.

R4-11-1406. Compliance with this Rule

A. A dentist who determines that drugs have been illegally removed from the dentist's office, or that there is a drug shortage of controlled substances, shall immediately notify a local law enforcement agency and the Board. The dentist also shall provide the law enforcement agency a written report, using a DEA 106 form, and provide copies to the Drug Enforcement Administration and the Board within 7 days of the discovery.

B. A dentist who dispenses drugs or devices in a manner inconsistent with Article 14 is subject to discipline pursuant to A.R.S. §32-1201 et seq.

ARTICLE ~~3.~~ 15. COMPLAINTS, INVESTIGATIONS, DISCIPLINARY ACTION, REINSTATEMENT OF REVOKED LICENSES

~~**R4-11-301. Terms and conditions of reinstatement**~~
~~Persons desiring reinstatement of a revoked license must apply through ordinary licensing methods and such application shall have attached thereto, substantial evidence that the reinstatement of license will no longer constitute a threat to the public health and safety.~~

~~**R4-11-302. Criteria for determination of application for reinstatement**~~
~~The Board shall make such determination of each application as it deems consistent with the public health and safety and just in these premises.~~

~~**R4-11-303. Criteria for determination of application**~~
~~The Board shall make such determination of each application as it deems consistent with the public health and safety and just in these premises.~~

~~**R4-11-304. Limitation on right of reinstatement**~~
~~If a license has not been reinstated within five years from the date of revocation, the applicant shall be subject to re-examination in order to obtain a license (adopted 12-11-64) (amended 2-17-69).~~

R4-11-1501. Ex parte Communication

A complainant, licensee or certificate holder against whom a complaint has been filed, shall not engage in ex parte communication.

R4-11-1502. Complaint Investigator Qualifications

A dentist, dental hygienist, or denturist appointed as a Board investigator shall:

1. Possess a valid license, restricted permit or certificate to practice in Arizona;
2. Have at least 5 years of practice in Arizona; and
3. Have not been disciplined by the Board within the past 24 months.

R4-11-1503. Initial Complaint Review

A. The president's designee shall initially review a complaint. If the designee determines that the Board has no jurisdiction, the complaint shall be forwarded to the Board for termination.

B. If the designee determines that the Board has jurisdiction:
   1. Board personnel shall notify the complainant and licensee or certificate holder of the investigative and adjudicative process as follows:
      a. By regular U.S. Mail that the complaint has been filed and whether a clinical evaluation will be scheduled; and
      b. By certified U.S. Mail of an informal interview, investigative interview, or mediation, if the complaint has been tabled or remanded, of a postponement or continuance, and a subpoena, notice, or order.
   2. The president's designee shall refer the complaint to an informal interview, investigative interview, or mediation. Where the allegations, if proven, may result in suspension or revocation of license or certificate, the complaint shall be referred to an informal interview. All other complaints shall be referred to investigative interview or mediation.
   3. The Board may subpoena a patient's treatment records from the licensee, certificate holder, or any other health care provider.

4. Board personnel shall provide the licensee or certificate holder with a copy of the complaint upon receipt of the treatment records.
5. If a complaint alleges a violation of the state or federal criminal code, the Board shall refer the complaint to the proper law enforcement agency.
6. If during the course of investigating a complaint, but before an investigative or informal interview, it appears the evidence does not support the allegations contained in the complaint the president's designee shall forward the complaint to the Board for termination.

C. The Board's procedures for complaints referred to clinical evaluation are:
1. Except as provided in subsection (C)(1)(a), the president's designee shall appoint 1 or more dentists to perform a clinical evaluation. If there is more than 1 clinical evaluation, the clinical evaluators do not need not be present at the same time. The Board shall approve each clinical evaluator.
   a. If the complaint involves a dental hygienist, denturist or dentist who is a recognized specialist, the president's designee shall appoint a clinical evaluator from that area of practice or specialty.
   b. The Board shall not disclose the identity of the licensee to a clinical evaluator before the Board receives the clinical evaluator's report.
2. The president's designee or clinical evaluator shall prepare a clinical evaluation report for the informal or investigative interview or Board meeting. The president's designee shall provide a copy of the clinical evaluation report to the licensee or certificate holder. The licensee or certificate holder may submit a written response to the clinical evaluation report before the informal or investigative interview or Board meeting.

D. The Board's procedures for investigative and informal interviews are that:
1. Board personnel shall provide the complainant and licensee or certificate holder with written notice of the time and date of the investigative interview or informal interview. The notice shall include all allegations contained in the complaint and any allegation which arose during the Board's investigation before the notice date.
2. The Board's president or the president's designee may request an informal interview. The Board president or president's designee:
   a. May appoint 1 or more Board members to act as the informal interviewing officer; or
   b. May appoint a Board approved investigator to assist the informal interviewing officer; and
   c. Shall appoint 1 investigator or Board member from the relevant area of practice or specialty, if the licensee or certificate holder is a dental hygienist, denturist or recognized dental specialist.
3. If a complaint is referred for an investigative interview, the president's designee shall appoint an investigator or an investigative panel, consisting of at least 2 dentists and 1 lay person to conduct the investigative interview. One panel member, who is not a lay person, shall serve as the chairperson. If the licensee or certificate holder is a dental hygienist, denturist or a recognized dental specialist, at least 1 investigator shall be from that area of practice or specialty.
4. The complainant and licensee may agree to waive the requirements in this section regarding appointment of a licensee from a specific practice area or specialty, or a lay person.
5. The complainant and licensee or certificate holder and any witness present at the informal interview or investigative interview may be questioned by the informal interviewing officer, investigators, or investigative interview panel. Counsel representing either the complainant or licensee or certificate holder may direct questions through the chairperson of the investigative interview panel or informal interviewing officer. Following the presentation of all testimony and evidence, the complainant and licensee or certificate holder or their respective representative may make a closing statement.
6. The informal interviewing officer, investigator, or investigative interview panel shall develop findings of fact, conclusions of law, and a recommendation for disposition of the complaint based on the treatment records, the clinical evaluation observations and documentation, testimony of the complainant, licensee or certificate holder, and any other witnesses or relevant documents.
7. Board personnel shall prepare a written report of the investigative or informal interview from the recording of the interview and the informal interviewing officer's or investigative interview panel's written findings of fact, conclusions of law, and recommendation.
8. Board personnel shall record all informal and investigative interviews mechanically or stenographically.

R4-11-1504. Reinstatement

A. A person who wants to reinstate a revoked license shall comply with the application requirements in A.R.S. § 32-1201 et seq. and these rules.
B. An applicant for reinstatement also shall provide information to the Board reflecting that the applicant is rehabilitated with respect to the conduct which was the basis for the revocation.
C. An applicant for reinstatement who submits an application more than 5 years after the date of revocation shall also comply with the examination requirements in A.R.S. § 32-1201 et seq. and these rules.

ARTICLE 16. MEDIATION

R4-11-1601. Mediation Process

A. The Board's executive director or chief investigator shall review each complaint that does not involve dental incompetence, malpractice, or criminal allegations to decide whether to refer the complaint to mediation.
B. A complaint against a respondent who has 2 or more final Board disciplinary actions in the 24 months immediately preceding the date that the current complaint was filed with the Board shall not be referred to mediation.
C. If a complaint is referred to mediation, the investigator shall seek written agreements from the complainant and respondent to participate in mediation before mediation proceeds.
D. The Board staff may subpoena relevant records. The Board staff shall provide the mediator with all documentation regarding the complaint including the complaint, response, dental records, billings, and correspondence. The documents obtained by subpoena or produced by either the complainant or the respondent may be used in the investigation of the complaint if an investigation proceeds.
E. Upon receipt of the signed agreements to participate in mediation, and all relevant records, the mediator shall schedule the location, date, and time of the mediation. Mediation may be held in person, or telephonically.

F. The Board staff shall mail a mediation meeting notice to the complainant and respondent at least 20 days before the scheduled mediation.

G. Mediation excludes legal representation. Mediation sessions shall not be recorded. Statements made during mediation shall be confidential and not used in any subsequent administrative or legal proceeding. The mediator's notes shall not be part of the complaint file, and shall be kept confidential. The mediator shall not be subpoenaed, or otherwise involved, in any court proceeding, lawsuit, or other legal action involving the parties and subject matter that was a part of a complaint that was sent to mediation.

H. Any agreement reached by the complainant and respondent shall not be construed as an admission of any wrongdoing.

I. If a mediation agreement is reached, the mediator shall put it in writing. The agreement shall be signed by the complainant and the respondent, and is subject to review and approval by the Board.

J. The Board staff shall monitor the respondent's compliance with the terms of the mediation agreement.

K. If the respondent fully complies with the terms of a Board approved mediation agreement, the complaint shall be dismissed by Board order.

L. A complaint shall proceed through the Board's investigative and adjudicative procedures pursuant to A.R.S. Title 32, Chapter 12 if:

1. A complaint is not referred to mediation,
2. Mediation is declined,
3. A mediation agreement is not reached,
4. The Board does not approve a mediation agreement, or
5. The Board is presented with facts to indicate that the respondent may not have complied with the terms of mediation agreement.

ARTICLE ~~7.~~ 17. HEARINGS, REHEARINGS ~~OF THE BOARD~~

~~R4-11-701.~~ R4-11-1701. ~~Procedure; grounds~~ Rehearings

A. ~~A decision or order of the Board may be vacated and a new hearing granted on motion of the aggrieved party for any of the causes, listed in subsection (C) of this rule, materially affecting his rights.~~ Except as provided in subsection (F), a party who is aggrieved by an order issued by the Board, may file with the Board, not later than 15 days after service of the Board's order, a written motion for rehearing or review of the order specifying the particular grounds for rehearing. For purposes of this subsection, an order is deemed to have been served when personally delivered or mailed by certified mail to the party at the party's last known address.

B. ~~Pursuant to A.R.S. §32-1263.02(E), a preliminary order of the Board may be reviewed or rehearing granted on petition of either party for any of causes, listed in subsection (C) of this rule, materially affecting the rights of either party.~~ A party filing a motion for rehearing under this rule may amend the motion at any time before it is ruled upon by the Board. Other parties or the attorney general may file a response within 10 days after service of the motion or amended motion. The Board may require that the parties file supplemental memoranda explaining the issues raised in the motion, and may permit oral argument.

C. ~~The following are causes for review or rehearing~~: The Board may grant a rehearing of the order for any of the following causes materially affecting the moving party's rights:

1. Irregularity in the proceedings before ~~of~~ the Board or any order ~~prevailing party, or any order~~ or an abuse of discretion, which deprived ~~whereby~~ the moving party ~~was deprived~~ of a fair hearing. ~~.~~ ;
2. Misconduct of the Board, its personnel, the informal interviewing officer, the investigative interview panel, the hearing officer, administrative law judge, or the prevailing party. ~~.~~ ;
3. ~~Material evidence, newly discovered, which with reasonable diligence could not have been discovered and produced at the hearing.~~ Accident or surprise which could not have been prevented by ordinary prudence;
4. Excessive or insufficient ~~sanctions.~~ penalties;
5. Error in the admission or rejection of evidence~~, or in refusing instructions requested,~~ or other errors of law occurring at the hearing ~~or during the progress of the action.~~ ;
6. That the decision ~~of the Board is the result of passion or prejudice.~~ arbitrary, capricious, or an abuse of discretion;
7. That the decision~~, findings of fact or judgment~~ is not justified by the evidence or is contrary to law. ~~.~~ ; or
8. Newly discovered, material evidence which could not, with reasonable diligence, have been discovered and produced at the original hearing.

D. The Board may affirm or modify the order or grant a rehearing or review to all or any of the parties and on all or part of the issues for any of the reasons set forth in subsection (C). After giving the parties notice and an opportunity to be heard on the matter, the Board may grant a motion for rehearing, timely served, for a reason not stated in the motion. The Board, within the time for filing a motion for rehearing under this rule, may on its own initiative grant a rehearing or review of its order for any reason for which it might have granted a rehearing on motion of a party. An order granting a rehearing shall specify the grounds on which the rehearing is granted, and the rehearing shall cover only those matters specified.

E. When a motion for rehearing is based upon affidavits, they shall be served with the motion. An opposing party or the attorney general may, within 10 days after such service, serve opposing affidavits.

F. If in a particular order, the Board makes specific findings that the immediate effectiveness of the order is necessary for the preservation of public health and safety and that a rehearing or review is contrary to the public interest, the order may be issued as a final order without an opportunity for a rehearing or review. If an order is issued as a final order without an opportunity for rehearing, the aggrieved party shall make an application for judicial review of the order within the time limits permitted for application for judicial review of the Board's final order.

G. The Board shall consider a motion for review or rehearing within 120 days after it has been filed. If a rehearing is granted, the Board shall hold the hearing within 120 days after it issues the order granting the rehearing. If a motion for rehearing is not considered or reheard within these time limits, the motion is granted.

~~R4-11-702. Scope~~

~~On a motion for a new hearing, the Board may open the judgment if one has been entered, take additional testimony, amend findings of fact and conclusions, and direct the entry of a new judgment.~~

~~R4-11-703. Contents of motion; amendment, rulings reviewable~~

A. The motion for a new hearing shall be in writing, shall specify generally the grounds upon which the motion is based,

and may be amended at any time before it is ruled upon by the Board.

B. Upon the general ground that the Board erred in admitting or rejecting evidence, the Board shall review all rulings during the hearing upon objections to evidence.

C. Upon the general ground that the decision, findings of fact, or judgment is not justified by the evidence, the Board will review the sufficiency of the evidence.

~~**R4-11-704. Time for motion**~~

~~A motion for new hearing shall be served not later than ten days after the entry of the judgment, except that a motion for new hearing on the ground of newly discovered evidence may be made after the expiration of such period and before expiration of time for appeal, with leave of Board.~~

~~**R4-11-705. Time for determination of motion**~~

~~Motions for new hearing shall be determined within 20 days after rendition of judgment, and if not so determined shall be deemed denied, unless continued by Board order or stipulation.~~

~~**R4-11-706. Time for serving affidavits**~~

~~When a motion for a new hearing is based upon affidavits, they shall be served with the motion. The opposing party has ten days after such service within which to serve opposing affidavits, which period may be extended for an additional period not exceeding 20 days either by the Board for good cause shown or by the parties by written stipulation. The Board may permit reply affidavits.~~

~~**R4-11-707. On initiative of Board**~~

~~Not later than ten days after entry of judgment the Board of its own initiative may order a new hearing for any reason for which it might have granted a new hearing on motion of a party, and in the order shall specify the grounds therefor.~~

~~**R4-11-708. Questions to be considered in new hearing**~~

~~A new hearing, if granted, shall be only a new hearing on the question or questions with respect to which the decision is found erroneous, if separable. If a new hearing is ordered because the sanction imposed is excessive or inadequate and granted solely for that reason, the decision shall be set aside only in respect of the sanctions, and shall stand in all other respects.~~

~~**R4-11-709. Number of new hearings**~~

~~Not more than two new hearings shall be granted to any party in the same action, except when the Board has been guilty of some misconduct or has erred in matters of law.~~

~~**R4-11-710. Specification of grounds of new hearing in order**~~

~~No order granting a new hearing shall be made and entered unless the order specifies with particularity the ground or grounds on which the new hearing is granted.~~

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 25. BOARD OF PODIATRY EXAMINERS

PREAMBLE

1. **Sections Affected** / **Rulemaking Action**

R4-25-101	Amend
R4-25-104	New Section
Table 1	New Table
R4-25-202	Repeal
R4-25-301	New Section
R4-25-302	Repeal
R4-25-302	New Section
R4-25-303	Renumber
R4-25-303	New Section
R4-25-304	Repeal
R4-25-304	Renumber
R4-25-602	Amend

2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

Authorizing statute: A.R.S. § 32-804

Implementing statutes: A.R.S. §§ 32-822, 32-823, 32-826, 32-827, 32-830, and 41-1072 through 41-1078

3. **A list of all previous notices appearing in the Register addressing the proposed rule:**

Notice of Rulemaking Docket Opening: 4 A.A.R. 2253, August 21, 1998.

4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**

Name: Linda Wells, Executive Director

Address: Board of Podiatry Examiners
1400 W. Washington, Suite 230
Phoenix, Arizona 85007

Telephone: (602) 542-3095

Fax: (602) 542-3093

5. **An explanation of the rule, including the agency's reasons for initiating the rule:**
A.R.S. §§ 41-1072 through 41-1078 require all state agencies, boards, and commissions subject to the Administrative Procedure Act to establish by rule, time-frames for licensing activities. The proposed rules: amend the definitions; set forth the requirements for applications for a regular podiatry license, a podiatry license by comity, a provisional license, and registration for dispensing of drugs and devices; establish time-frames for approving applicants to sit for written and oral examinations, granting or denying licenses, and granting or denying registration; and renumber R4-25-303 to R4-25-304.

6. **A showing of good cause why the rules are necessary to promote a statewide interest if the rule will diminish a previous grant of a political subdivision of the state:**
Not applicable

7. **The preliminary summary of the economic, small business, and consumer impact:**
The Board will incur minimal costs to promulgate the rules and to notify interested parties of the new rules after the rules are approved. The Board will incur moderate costs for notification of completeness of an application. All applicants and the Board should benefit because of the increased consistency and efficiency in the application process. There are no other expected costs on other government entities, podiatrists, or the public.

8. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**
Name: Linda Wells, Executive Director
Address: Board of Podiatry Examiners
1400 W. Washington, Suite 230
Phoenix, Arizona 85007
Telephone: (602) 542-3095
Fax: (602) 542-3093

9. **The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule; or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**
No oral proceedings are scheduled. Contact Linda Wells in writing to request that an oral proceeding be held. The Board will hold an oral proceeding if it receives 5 written requests within 30 days following publication of the proposed rulemaking. Written comments on the proposed rules may be submitted to the Board office no later than 5:00 p.m., October 5, 1998.

10. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**
None

11. **Incorporations by reference and their location in the rules:**
None

12. **The full text of the rules follows:**

TITLE 4. PROFESSIONS AND OCCUPATIONS

CHAPTER 25. BOARD OF PODIATRY EXAMINERS

ARTICLE 1. IN GENERAL

Section
R4-25-101. Definitions
R4-25-104. Time-frames for Licensure and Certification Approvals
Table 1. Time-frames (in days)

ARTICLE 2. EXAMINATIONS

~~R4-25-202. Application for Examination~~

ARTICLE 3. LICENSES

R4-25-301. Application for a Regular Podiatry License
~~R4-25-302. Issuance of a Provisional License~~
R4-25-302. Application for a License by Comity
~~R4-25-303~~R4-25-304. ~~Supervision of a Provisional License~~ Application for a Provisional License
R4-25-304. ~~Issuance of a Regular Podiatry License~~ Supervision of a Provisional License

ARTICLE 6. DISPENSING OF DRUGS AND DEVICES

R4-25-602. Registration and Inventory Requirements

ARTICLE 1. IN GENERAL

R4-25-101. Definitions

~~A. Words defined in A.R.S. § 32-801 have the same meaning when used in this Chapter.~~
~~B. Unless the context otherwise requires:~~
The following definitions apply in this Chapter unless otherwise specified:

1. "Administer" ~~shall have~~ means the same as the definition ~~that is given to~~ of "Administer" in A.R.S. § 32-1901.
2. "Administrative completeness review" means the Board's process for determining that an applicant has:
   a. Provided all the information and documents required by Board statute or rule for an application; and
   b. Taken a written examination or oral examination required by the Board.

3. "Applicant" means an individual requesting licensure or registration by the Board.
4. "Application packet" means all forms, documents, and additional information required by the Board to be submitted with an application by an applicant or on the applicant's behalf.
5. "Comity" means the procedure for granting an Arizona license to an applicant who is licensed as a podiatrist in another state of the United States.
6. "Days" means calendar days.
~~2~~7. "Controlled substance" means ~~a drug, substance, or immediate precursor identified, defined, or listed in A.R.S. § Title 36, Chapter 27, Article 2~~ the same as the definition in A.R.S. § 32-1901.
~~3~~8. "Device" means ~~any appliance, apparatus, and instrument, intended for use in the diagnosis and treatment of the human foot and leg~~ the same as the definition in A.R.S. § 32-1901, and includes the definition of prescription-only device defined in A.R.S. § 32-1901.
9. "Drug" means the same as the definition of drug in A.R.S. § 32-1901 and includes controlled substance, narcotic drug defined in A.R.S. § 32-1901, prescription medication, and prescription-only drug.
~~4~~10. No change.
~~5~~11. No change.
~~6~~12. No change.
~~7~~13. No change.
~~8~~14. No change.
~~9~~15. No change.
~~10~~16. "Prescription medication" means ~~any medication or substance which is dispensed pursuant to a prescription order~~ the same as the definition in A.R.S. § 32-1901.
~~11~~17. "Prescription-only drug" ~~shall have~~ means the same as the definition ~~that is given to "Prescription only device"~~ in A.R.S. § 32-1901.
~~12~~18. "Prescription-only device" ~~shall have~~ means the same as the definition ~~that is given to "Prescription only device"~~ in A.R.S. § 32-1901.
~~13~~19. No change.
20. "Substantive review" means the Board's process for determining that an applicant meets the requirements of A.R.S. §§ 32-801 through 32-871 and this Article.

R4-25-104. Time -frames for Licensure and Certification Approvals

A. The overall time-frame described in A.R.S. § 41-1072(2) for each type of approval granted by the Board is set forth in Table 1. The applicant and the Executive Director of the Board may agree in writing to extend the overall time-frame. The substantive time-frame may not be extended by more than 25% of the overall time-frame.

B. The administrative completeness review time-frame described in A.R.S. § 41-1072 for each type of approval granted by the Board is set forth in Table 1.
1. The administrative completeness review time-frame begins:
   a. For approval to take a written and an oral examination or oral examination only, when the Board receives an application packet required in R4-25-301 or R4-25-302;
   b. For approval of a provisional license, when the Board receives the application packet required in R4-25-303;
   c. For approval of a registration to dispense drugs, when the Board receives the application packet required in R4-25-602; or
   d. For approval or denial of a regular podiatry license, when the applicant sits for a written and an oral examination or oral examination only.
2. If the application packet is incomplete, the Board shall send to the applicant a written notice specifying the missing document or incomplete information. The administrative completeness review time-frame and the overall time-frame are suspended from the postmark date of the notice until the date the Board receives a complete application packet from the applicant.
3. If an application packet is complete, the Board shall send a written notice of administrative completeness to the applicant.
4. If an applicant fails to sit for an examination within 12 months from the date an application is submitted, the Board shall consider the application withdrawn.

C. The substantive review time-frame described in A.R.S. § 41-1072(3) is set forth in Table 1 and begins on the postmark date of administrative completeness.
1. During the substantive review time-frame, the Board may make 1 comprehensive written request for additional information or documentation. The time-frame for the Board to complete the substantive review is suspended from the postmark date of the comprehensive written request for additional information or documentation until the Board receives the additional information or documentation.
2. The Board shall send a written notice of approval to an applicant who meets the qualifications in A.R.S. § 32-821 through 32-830.
3. The Board shall send a written notice of denial to an applicant who fails to meet the qualifications in A.R.S. § 32-821 through 32-830.

F. If a time-frame's last day falls on a Saturday, Sunday, or an official state holiday, the next business day will be considered the time-frame's last day.

Table 1. Time-frames (in days)

Type of Approval	Overall Time-frame	Administrative Completeness Time-frame	Substantive Review Time-frame
Approval to Take a Written and Oral Examination or Oral Examination Only	90	30	60
Regular Podiatry License	60	30	30
License by Comity	60	30	30
Provisional License	60	30	30
Dispensing Registration	60	30	30

ARTICLE 2. EXAMINATIONS

~~R4-25-202. Application for Examination~~

~~A. An application for examination is deficient if the applicant lacks any of the credentials or other evidence which the Board is authorized by A.R.S. § 32-823 to require. An applicant who disputes a statement of deficiency shall be granted a hearing before the Board if:~~

~~1. A request for such hearing is presented in writing at least ten days prior to the Board meeting next preceding the examination; and~~

~~2. The request includes a brief explanation of the applicant's grounds for disagreeing with the Board's statement of deficiency.~~

~~B. An application is not timely filed because of a deficiency which is determined by the Board to be beyond the reasonable control of the applicant, the application will be considered timely if filed at least 30 days before the end of the examination.~~

ARTICLE 3. LICENSES

R4-25-301. Application for a Regular License

A. No later than 90 days before a written or oral examination date, an applicant for a regular license shall submit:

1. An application form provided by the Board, signed and dated by the applicant, and notarized that contains:
   a. The applicant's name, address, social security number, telephone number, and date of birth;
   b. The name and address of the applicant's employer at the time of application;
   c. The name, address, and type of facility at which the applicant served as an intern or resident in podiatric medicine;
   d. The name and address of each university or college from which the applicant graduated, dates of attendance, date of graduation, and degree received;
   e. The name and address of the podiatric medical school from which the applicant graduated, dates of attendance, and date of graduation;
   f. The name of each state in which the applicant is currently or has been licensed as a podiatrist and address of the licensing agency;
   g. A statement of whether the applicant has taken and passed a national podiatric examination in any state and date of passage, if applicable;
   h. A statement of whether the applicant has ever been convicted of a felony or misdemeanor involving moral turpitude, excluding traffic violations except for driving while intoxicated, involuntary manslaughter, or reckless driving;
   i. A statement of whether the applicant has ever had an application for a license, certification, or registration, other than a driver's license, denied or rejected by any state;
   j. A statement of whether the applicant has ever had a license, certification, or registration, other than a driver's license, suspended or revoked by any state;
   k. A statement of whether the applicant has ever entered into a consent agreement or stipulation with the state;
   l. A statement of whether the applicant has ever been named as a defendant in any medical malpractice matter that resulted in a settlement or judgment against the applicant;
   m. A statement of whether the applicant has a chronic ailment communicable to others;
   n. A statement of whether the applicant has any medical condition that in any way impairs or limits the applicant's ability to practice podiatric medicine; and
   o. A statement, verified under oath by the applicant, that the information on the application pertains to the applicant, is true and correct, and has not procured through fraud or misrepresentation.
2. Two passport type photographs of the applicant no larger than 1 ½ x 2 inches taken not more than 60 days before the date of application;
3. A photocopy of the diploma issued to the applicant upon completion of podiatric school;
4. A photocopy of the residency certificate issued to the applicant upon completion of residency; and
5. The fee required in R4-25-103.

B. An applicant shall arrange to have a transcript of examination scores of a national board examination in Podiatry sent directly to the Board office by the professional examination service preparing the examination. The transcript shall be received by the Board no less than 30 days before the date of an oral examination.

~~R4-25-302. Issuance of a Provisional License~~

~~A. After receiving a passing grade on the podiatry examination, an applicant who intends to practice podiatry and who has not successfully completed a one-year internship program shall be required to apply for a provisional license.~~

~~B. An applicant for a provisional license shall submit the required fees with the completed application for a provisional license. The Board will delay issuance of a provisional license until the applicant notifies the Board of his intent to practice in Arizona within 30 days and provides the Board with business or permanent mailing address.~~

~~C. Prior to the issuance of a provisional license, an applicant shall appear before the Board, or a designated member, at a~~

~~time and place specified by the Board for the purpose of acquainting the applicant with the practice of podiatry under a provisional license in the state of Arizona.~~

R4-25-302. Application for a Podiatrist's License by Comity

A. Under A.R.S. § 32-827, an applicant for a podiatrist's license by comity shall submit to the Board a minimum of 90 days before an oral examination date, an application form provided by the Board, signed and dated by the applicant, and notarized that contains the information in R4-25-102 (A)(1) and the following:

1. A photocopy of a current podiatric license in good standing issued in another state;
2. Written documentation of having been engaged in the practice of podiatric medicine for 5 of 7 years immediately preceding the application;
3. Two passport type photographs of the applicant no larger than 1 ½ x 2 inches, taken not more than 6 months before the date of application; and
4. The fee required in R4-25-103.

B. An applicant shall arrange to have a transcript of examination scores of a national board examination in Podiatry sent directly to the Board office by the professional examination service preparing the examination. The transcript shall be received by the Board no less than 30 days before the date of an oral examination.

R4-25-303. Application for a Provisional License

An applicant for a regular license who receives a passing grade on the written examination and intends to practice podiatry in Arizona, but has not successfully completed a 1-year internship shall apply to the Board for a provisional license within 30 days from the date the Board issues the notice required in R4-25-102(D)(2). The applicant shall submit to the Board an application provided by the Board, signed and dated by the applicant, and notarized that contains:

1. The applicant's name, address, social security number, telephone number, and date of birth;
2. The name and address of the facility at which the applicant will be serving as an intern in podiatric medicine;
3. The name and address of each university or college from which the applicant graduated, dates of attendance, date of graduation, and degree received;
4. A statement of whether the applicant has passed a podiatric national board examination and date of passage;
5. A statement of whether the applicant has passed the oral examination; and
6. A notice of intent to practice podiatry in Arizona.

~~R4-25-303.~~R4-25-304. Supervision of a Provisional License

A. No change.
B. No change.
C. No change.
D. No change.
E. No change.

~~**R4-25-304. Issuance of a Regular Podiatry License**~~

~~After receiving a passing grade on the podiatry examination and completing a "one year internship program", an applicant who intends to practice podiatry shall be required to notify the Board in writing of his or her eligibility by forwarding a certification of completion of any one of the following:~~

~~1. Any American Podiatric Medical Association approved one year program, or~~
~~2. First year post graduate program.~~

ARTICLE 6. DISPENSING OF DRUGS AND DEVICES

R4-25-602. Registration and Inventory Requirements

A. A podiatrist may dispense ~~controlled substances and prescription only~~ drugs and devices if:

~~1. Prior to dispensing the podiatrist files with the Board a complete dispensing form for initial and annual registration furnished by the Board that includes the following:~~
~~a. The podiatrist's name;~~
~~b. The type of drugs and devices the podiatrist intends to dispense, including prescription only and controlled substances;~~
~~c. The location or locations where the podiatrist intends to dispense;~~
~~d. A copy of the podiatrist's current Drug Enforcement Administration Certificate of Registration for each dispensing location, if the podiatrist intends to dispense controlled substances from any location; and~~
~~e. The correct fee for initial registration or annual renewal pursuant to R4-25-103.~~

1. The podiatrist is currently licensed as a podiatrist in Arizona and registers with the Board by submitting all of the following to the Board:
   a. The applicant's current Drug Enforcement Administration Certificate of Registration issued by the Department of Justice under 21 U.S.C. 801 *et seq.*;
   b. The fee required in R4-25-103; and
   c. An application form provided by the Board, signed and dated by the applicant, and notarized that contains:
      i. The applicant's name;
      ii. The address of each location where applicant intends to dispense drugs and devices; and
      iii. The types of drugs and devices the applicant intends to dispense.

~~2. The podiatrist is currently licensed in the state and pays registration fees as prescribed pursuant to A.R.S. § 32-830.~~

~~3~~2. The podiatrist ensures that all drugs are dispensed in a prepackaged ~~containers~~ container or in a light-resistant container with a consumer safety cap, and labeled with the following information:
   a. No change.
   b. No change.
   c. No change.
   d. No change.

~~4~~3. No change.

~~5~~4. The podiatric physician ensures that ~~Drugs~~ drugs and devices not requiring refrigeration are maintained in an area where the temperature does not exceed 85° F.

~~6~~5. No change.

~~7~~B. ~~The rule for dispensing of drugs and devices~~ This rule does not apply to ~~manufacturer~~ manufacturers' ~~samples~~ samples of ~~prescription only medications~~ drugs and devices.

NOTICE OF PROPOSED RULEMAKING

TITLE 4. PROFESSIONS, AND OCCUPATIONS

CHAPTER 29. STRUCTURAL PEST CONTROL BOARD

PREAMBLE

1. **Sections Affected** — **Rulemaking Action**
   R4-29-108. — New Section

2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**
   Authorizing statute: A.R.S. § 32-2304, 32-2332
   Implementing statute: A.R.S. § 41-1073

3. **A list of all previous notices appearing in the Register addressing the proposed rule:**
   Notice of Rulemaking Docket Opening: 4 A.A.R. 2298, August 28, 1998.

4. **The name and address of agency personnel with whom persons may communicate regarding the rulemaking:**
   Name: Shirley J. Conard
   Address: Arizona Department of Agriculture
   1688 West Adams
   Phoenix, Arizona 85007
   Telephone: (602) 542-0962
   Fax: (602) 542-0466

5. **An explanation of the rule, including the agency's reasons for initiating the rule:**
   Laws 1996, Ch. 102, § 42, requires agencies to adopt rules establishing time-frames for the granting or denial of licenses. A.R.S. § 41-1001(11) defines a "license" as *the whole or part of any agency permit, certificate, approval, registration, charter or similar form of permission required by law, but it does not include a license required solely for revenue purposes.* The rules must specify:

   1. An "administrative completeness time-frame" (the time it takes the agency to determine if an application is complete);

   2. A "substantive review time-frame" (the time it takes the agency to review the application and determine if the applicant meets the substantive criteria for licensure); and

   3. An "overall time-frame" (a combination of the administrative completeness and substantive review time-frames.)

   The law also requires an agency to notify applicants within the established time-frames, whether the application is complete (administrative completeness) and whether a license is being issued (substantive review).

   According to legislation, time-frames are required only for licenses that require an application for processing. A.R.S. § 41-1073 prescribes that . . . *[n]o later than December 31, 1998, an agency that issues licenses shall have in place final rules establishing an overall time-frame during which the agency will either grant or deny each type of license that it issues.* The definition of "overall time-frame" is . . .*the number of days after receipt of an application for a license during which an agency determines whether to grant or deny a license.*

   The language of A.R.S. §41-1073(C) was carefully considered in reviewing and establishing the time-frames in subsection (D). In particular, potential impact of delay on the regulated community is weighed against the resources of the agency. The time-frames given are "maximum," to allow for situations where the assigned person may not be available for licensing duties or when a considerable amount of licenses are received within a short period of time. The month of December is particularly busy for the Commission when 500 to 1000 licenses are received and processed. It is extremely rare, however, that the fully allotted time-frames will be used, particularly in cases when the administrative completeness review is all that is necessary.

   If the applicant indicates that he or she has been involved in a felony, a felony search is implemented and FBI fingerprinting is requested. In these cases, the approval or denial of the license falls to the Commission. The Commission will review the application at their monthly meeting. The substantive completeness review time-frame, however, provides an additional 30 days to allow for when the Commission in unable to meet.

   Laws 1998, Ch. 142 effective August 21, 1998, (HB 2221) removed the authority and responsibility of licensing a pest control advisor (32-2318) and added the authority for issuing an apprentice license. (32-2315). This rulemaking reflects those changes.

6. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**
   Not applicable.

7. **The summary of the economic, small business, and consumer impact:**

It is not anticipated that the adoption of this rule will have any impact on private industry, small business, or consumers. This rule action provides the codification of the time-frames currently observed by the Commission.

In the last 5 years, the following licenses or certificates have been issued:

Type of License	FY94	FY95	FY96	FY97	FY98
Applicator/New	1,002	1157	1263	1259	1324
Applicator/Renewal	3,692	4,755	4,279	5,501	5,832
Business/New	86	96	131	112	178
Business/Renewal	623	618	721	832	823
Qualifying Party/New	88	120	126	85	151
Qualifying Party/Renewal	758	899	847	952	965
Registered Employee	2,196	1,115	2,041	2,230	2,221

A. *Estimated Costs and Benefits to the Structural Pest Control Commission.*

Currently, when incomplete applications are received, the licensing department sends the applicant a letter explaining what information is missing. This rule simply codifies the time-frames and procedures already observed by the Commission.

Using 9515 applicants, which represents FY 97 numbers of registered employees, certified applicators, business licensees and qualifying parties, the estimated unit cost for implementation of licensing time-frames is $1.57. This is calculated as follows:

Salary	Training		Implementation
3 FTE Exam Tech II			
@ $.063/hr. avg.	2 hrs x 3 FTE x $9.063=$54.37		
1 FTE Network Specialist			
@ $25.25/hr. avg.	2 hrs. x $25.25=	$50.50	20 hrs. x $25.25= $505.
Plus ERE @ 26%		$27.26	$131.3
	Subtotals	$132.13	$636.3
Operating Expenses			
9,515 applications x 1.5 avg. letters x			
$.32 postage + $.05 stationary =			$5280.64
	Total $6049.07		

Unit cost = 9515 / $6049.07 = $1.57 per application

This estimate is conservative, as estimates for new groups (apprentices) or new subdivisions of categories (woody-destroying organisms will be subdivided eventually) are not included in the 9,515 figure.

The Commission does not anticipate that penalties will be incurred for noncompliance with the overall time-frames.

B. *Estimated Costs and Benefits to Political Subdivisions.*

Political subdivisions of this state are not directly affected by the implementation and enforcement of this rulemaking.

C. *Businesses Directly Affected By the Rulemaking.*

Any businesses applying for a license will follow current procedures and practices and no additional cost or benefits shall occur. The proposed rules will provide an intangible benefit for these businesses by identifying the time-frames in which the Commission will approve or deny licenses.

D. *Estimated Costs and Benefits to Private and Public Employment.*

Private and public employment are not directly affected by the implementation and enforcement of this rulemaking.

E. *Estimated Costs and Benefits to Consumers and the Public.*

Consumers and the public shall follow current procedures and practices when applying for licenses and no additional cost or benefits shall occur. Consumers may also receive an intangible benefit by the identification of specific time limits for processing licenses.

F. *Estimated Costs and Benefits to State Revenues.*

This rulemaking will have no impact on state revenues.

8. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Shirley J. Conard

Address: Arizona Department of Agriculture
1688 West Adams
Phoenix, Arizona 85007

Telephone: (602) 542-0962

Fax: (602) 542-0466

9. **The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule, or if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Written comments on the proposed rules or preliminary economic, small business, and consumer impact statement must be received by 4:00 p.m., October 9, 1998. Persons with a disability may request a reasonable accommodation, such as a sign language interpreter, by contacting the Ameena Azzouni coordinator at (602) 255-3664, Ext 2272 (voice) or 1-800-367-3839 (TDD Relay). Requests should be made as early as possible to allow time to arrange the accommodation.

Date: October 9, 1998

Time: 9 p.m.

Location: Structural Pest Control Commission
9535 E. Doubletree Ranch Road
Scottsdale, Arizona 85258-5514

Nature: Oral Proceeding

10. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:**

None.

11. **Incorporations by reference and their location in the rules:**

None.

12. **The full text of the rules follows:**

TITLE 4. PROFESSIONS, AND OCCUPATIONS

CHAPTER 29. STRUCTURAL PEST CONTROL BOARD

ARTICLE 1. GENERAL AND ADMINISTRATIVE PROVISIONS

Section
R4-29-108. Licensing Time-frames

ARTICLE 1. GENERAL AND ADMINISTRATIVE PROVISIONS

R4-29-108. Licensing Time-frames

A. Overall time-frame. The Commission shall issue or deny a license within the overall time-frames listed in subsection (D) after receipt of the complete application. The overall time-frame is the total of the number of days provided in the administrative completeness review and the substantive review.

B. Administrative completeness review.

1. The administrative completeness review time-frames established in subsection (D) begins on the date the Commission receives the application. The Commission shall notify the applicant, in writing within the administrative completeness review time-frame if the application or request is incomplete. The notice shall specify what information is missing. If the Commission does not provide notice to the applicant, the license application shall be considered complete.
2. An applicant with an incomplete license application shall supply the missing information within the response to completion request established in subsection (D). The administrative completeness review time-frame is suspended from the date the Commission notifies the applicant of missing information until the date the Commission receives the information.
3. If the applicant fails to submit the missing information before the response to completion request, the Commission may close the file. An applicant whose file has been closed and who later wishes to obtain a license shall submit a new application.

C. Substantive review. The substantive review time-frame established in subsection (D) shall begin after the application is administratively complete.

1. If the Commission makes a comprehensive written request for additional information, the applicant shall submit the additional information identified by the request within the response for additional information period provided in subsection (D). The substantive completeness review is suspended from the date the Com-

mission mails the request until the information is received by the Commission. If the applicant fails to provide the information identified in the written request the Commission shall consider the application withdrawn.

2. The Commission shall issue a written notice granting or denying the license within the substantive review time-frame. If the application is denied, the Commission shall send the applicant written notice explaining the reason for the denial, the applicant's right to seek a fair hearing, and the time period in which the applicant may appeal the denial.

D. Time-frames.

License	Statutory Authority (Title 32)	Administrative Completeness Review	Response to Completion Request	Substantive Completeness Review	Response to Additional Information	Overall Time-frame
Applicator Certificate New/Renewal/Temporary	32-2312	7	14	60	14	67
Business License New Renewal	32-2313	7 7	7 14	60 5	14 14	67 12
Qualifying Party New Renewal Temporary	32-2314	7 7 7	14 14 7	60 14 60	14 14 14	67 21 67
Registered Employee Apprentice	32-2315	14 14	14 14	60 60	14 14	74 74

NOTICE OF PROPOSED RULEMAKING

TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION

CHAPTER 2. CORPORATION COMMISSION - FIXED UTILITIES

PREAMBLE

1. **Sections Affected** — **Rulemaking Action**

R14-2-203	Amend
R14-2-204	Amend
R14-2-208	Amend
R14-2-209	Amend
R14-2-210	Amend
R14-2-211	Amend
R14-2-1601	Amend
R14-2-1603	Amend
R14-2-1604	Amend
R14-2-1605	Amend
R14-2-1606	Amend
R14-2-1607	Amend
R14-2-1608	Amend
R14-2-1609	Amend
R14-2-1610	Amend
R14-2-1611	Amend
R14-2-1612	Amend
R14-2-1613	Amend
R14-2-1614	Amend
R14-2-1615	Amend
R14-2-1616	Repeal

R14-2-1616	New Section
R14-2-1617	New Section
R14-2-1618	New Section

2. **The specific authority for the rulemaking, including both the authorizing statute (general) and the statutes the rules are implementing (specific):**

   Arizona Constitution, Article XV

   Authorizing statute: A.R.S. §§ 40-202, 40-203, 40-250, 40-321, 40-322, 40-331, 40-332, 40-336, 40-361, 40-365, 40-367, and A.R.S. Title 40, generally.

3. **A list of all previous notices appearing in the Register addressing the proposed rule:**

   Notice of Rulemaking Docket Opening: 4 A.A.R. 2416, September 4, 1998.

   Notice of Emergency Rulemaking: 4 A.A.R. 2393, September 4, 1998.

4. **The name and address of agency personnel with whom persons may communicate regarding the rule:**

   Name: Ray T. Williamson, Acting Director, Utilities Division

   Address: Arizona Corporation Commission
   1200 West Washington
   Phoenix, Arizona 85007

   Telephone: (602) 542-0745

   Fax: (602) 542-2129

5. **An explanation of the rule, including the agency's reasons for initiating the rule:**

   On December 26, 1996, in Decision No. 59943, the Commission adopted rules which provided the framework for the introduction of retail electric competition in Arizona. These rules are codified at A.A.C.

   R14-2-1601 et seq. Competition in the retail electric industry is to be phased-in beginning in January 1999.

   The Commission initiated the present rulemaking to modify Articles 2 and 16 of the Arizona Administrative Code to provide the details of the structure and process of that competition in order to meet the target date of January 1, 1999 and to ensure the reliability of the electric system during the transition to competition. These rules are designed to help ensure that the transition is orderly and understandable for customers, fair and efficient for all market participants, and consistent with continued system reliability.

   The rules contain the following major provisions:

   Section R14-2-201 et seq. contain various conforming changes to the existing rules necessitated by the revisions to Article 16.

   Section R14-2-1601 sets forth new definitions necessitated by other changes to the rules.

   Section R14-2-1603 clarifies which entities are required to apply to the Commission for a Certificate of Convenience and Necessity.

   Section R14-2-1604 modifies the timetable for implementation of retail electric competition for the various classes of customers and requires Affected Utilities to report to the Commission on possible mechanisms, such as a rate reduction, to provide benefits to those customers not eligible for competitive electric services during the transition period.

   Section R14-2-1605 clarifies that aggregation services are competitive and that self-aggregation services do not require a Certificate of Convenience and Necessity.

   Section R14-2-1606 requires Utility Distribution Companies to offer Standard Offer Service after all retail customers are eligible for competitive services in 2001 and establishes those companies as the Provider of Last Resort. The rule is amended to require Utility Distribution Companies serving Standard Offer customers to purchase power by competitive bid except for spot-market purchases. It also allows the Utility Distribution Companies who have power contracts in excess of 12 months to rachet down power purchases.

   Section R14-2-1607 incorporates the provisions of Decision No. 60977 dated June 22, 1998 on stranded cost recovery. The changes to the rule would allow (not guarantee) Affected Utilities a reasonable opportunity to recover unmitigated stranded cost; the utilities must still take reasonable, cost-effective steps to recover unmitigated stranded cost. The Affected Utilities must request Commission approval of distribution charges or other mechanisms to collect unmitigated stranded cost from customers that reduce or terminate service or who obtain lower rates from the utility as a direct result of

   competitive services being offered.

   Section R14-2-1608 requires that a Systems Benefit Charge be paid by all participants in the competitive market and that Affected Utilities or Utility Distribution Companies file for review of the Systems Benefit Charge every 3 years. It also adds nuclear fuel disposal charges to those charges included in the Systems Benefit Charge.

   Section R14-2-1609 establishes a solar portfolio to encourage photovoltaic and solar thermal power generation. To encourage

an early start for solar generation, a variety of extra credit multipliers are set forth that may be used to meet the standard. Solar generation installed to meet the standard will count toward meeting the renewable resource goals of the Integrated Resource Planning Order (Decision No. 58643). Providers failing to meet the targets of this Section are subject to a penalty. Any monies accruing as a result to this penalty would be deposited in a newly established fund, the proceeds of which would be

administered by and independent entity and used to purchase solar generation or solar electricity for public entities such as state, county, or city entities, or school districts.

Section R14-2-1610 requires that Affected Utilities provide nondiscriminatory access to transmission and distribution facilities. It contains a policy statement that the Commission supports the development of an Independent System Operator or, at a minimum, and Independent System Administrator.

Section R14-2-1611 states the service territories of Arizona electric utilities that are not Affected Utilities are not open to competition and that those non-Affected Utilities are not eligible to compete for customers in the service territory of Affected Utilities. However a non-Affected Utility may compete in the service territories of Affected Utilities if the non-Affected Utility allows reciprocity and opens its service territory to competition.

Section R14-2-1612 sets forth the parameters of allowable rates for competitive services and requires that tariffs containing the rates be filed with and approved by the Commission. The rates may be set at a maximum level, subject to discount. Rates cannot be discounted below cost. Increases in maximum rates must be approved by the Commission.

Section R14-2-1613 provides consumer protections against Aslamming@ (the unauthorized changing of providers). All providers of electric service are required to meet all applicable reliability standards and any Electric Service Provider is required to provide at least 45 days notice of its intent to cease providing service to a given customer. The rules also sets forth the various metering protocols.

Section R14-2-1614 lists that reports required to be filed by Affected Utilities, Utility Distribution Companies and Electric Service Providers. The revisions add the number of customers aggregated and the aggregated load.

Section R14-2-1615 contains no significant changes.

Section R14-2-1616 is a new Section that requires competitive generation assets to be separated from an Affected Utility by January 1, 2001. An Affected Utility may either transfer the competitive generation

assets or services to an affiliate or an unaffiliated third party. The rule provides that the Commission may determine a fair and reasonable value if a transfer is made to an affiliate.

The rule provides that an Affected Utility or Utility Distribution Company may not provide competitive services except as otherwise provided in the rules although the rule does allow an Affected Utility or Utility Distribution Company to bill its own customers for distribution service or for providing billing services to Electric Service Providers in conjunction with billing for its own service.

The rule also exempts electric distribution cooperatives so long as the cooperative is not offering competitive services outside of the service territory it has as of the effective date of the rules.

Section R14-2-1617 sets forth certain safeguards necessary to ensure that ratepayers of remaining monopoly entities are not disadvantaged in any way by the actions of affiliates of the monopoly enterprises.

The rule requires that, among other items, separation of books and records, a prohibition against sharing office space, equipment, or services without full compensation as provided in the rule, prohibitions against transfer of information, prohibitions against an affiliate's use of an Affected Utility's or Utility Distribution Company's logo in advertising, prohibitions against joint marketing, and prohibitions against sharing of employees and corporate officers and directors.

The rule requires that, beginning December 31, 1998, each Affected Utility or Utility Distribution Company file a compliance plan requiring Commission approval setting forth the procedures it will follow to ensure that the rule is followed. Annual updates to reflect material changes are required. A performance audit, done by an outside auditor, is required annually until the year 2002. After that time, the Director, Utilities Division may request an audit.

Section R14-2-1618 requires that each customer with a demand of less than 1MW be provided with certain information so that they can make comparisons among competing suppliers and decide which supplier's product best meets their needs. This Section also requires that each entity prepare a statement of its terms and conditions of service and requires that certain basic information be included.

6. **A showing of good cause why the rule is necessary to promote a statewide interest if the rule will diminish a previous grant of authority of a political subdivision of this state:**

   Not applicable

7. **The preliminary summary of the economic, small business and consumer impact:**

   I. Identification of the proposed rulemaking.

   The proposed rule revisions provide for procedures and schedules to implement the transition to competition in the provision of retail electric service.

II. Economic, small business and consumer impact statement.

Under the proposed rules, end users of competition electric services may benefit sooner from greater choices of service options and rates because full competition will occur earlier than it would have under the prior rule. However, some small consumers will not participate in the competitive market as quickly as they would have under the prior rules.

Requirements for consumer information disclosure and unbundled bills will provide information that consumers can use to make informed choices regarding the selection of electric service providers. This will reduce the costs of searching for information. Consumers would also benefit from protections in the proposed rules regarding "slamming", notification of outages, and metering standards.

Business consumers who aggregate their loads from multiple sites will incur fewer costs associated with regulatory requirements because these customers (defined as self-aggregators) would not have to apply for a Certificate of Convenience and Necessity under the proposed rules.

Affected utilities and electric service providers may incur additional costs resulting from additional reporting, billing, and consumer disclosure requirements and from negotiating service acquisition agreements. Affected utilities may also incur additional costs associated with preparing and filing residential phase-in program proposals, compliance plans, reports, and audits and in separating monopoly and competitive services and maintaining the separation.

Separating utility monopoly and competitive services mitigates the potential for anti-competitive cross-subsidization that could harm consumers of monopoly services.

Manufacturers of solar electric generation equipment may benefit from increased sales, encouraged by changes to the solar portfolio standard regarding economic development. Manufacturing companies locating or expanding in Arizona may hire additional employees. Suppliers to the manufacturing companies may also

benefit and hire additional employees. Tax revenues may increase from both the manufacturers and their suppliers in Arizona.

Public entities may benefit from implementation of the Solar Electric Fund through their use of the fund to purchase solar electric generators or solar electricity.

Probable costs to the Commission include costs associated with new tasks, such as reviewing service acquisition agreements, reviewing utility filings of residential phase-in program proposals and quarterly reports, reviewing utility filings of reports detailing possible mechanisms to provide benefits to standard offer customers, establishing a Solar Electric Fund, developing standards for solar generating equipment, reviewing protocols regarding must-run generating units, reviewing reports of "slamming" violations, approving requirements

regarding metering and meter reading, reviewing utility filings of compliance plans, reviewing utility performance audits, and developing the format of a consumer information label.

Adoption of the proposed rule revisions would allow the Commission to more effectively implement the restructuring of the retail electric market.

8. **The name and address of agency personnel with whom persons may communicate regarding the accuracy of the economic, small business, and consumer impact statement:**

Name: Barbara Keene, Economist III

Address: Arizona Corporation Commission
1200 West Washington
Phoenix, Arizona 85007

Telephone: (602) 542-0853

Fax: (602) 542-2129

9. **The time, place, and nature of the proceedings for the adoption, amendment, or repeal of the rule or, if no proceeding is scheduled, where, when, and how persons may request an oral proceeding on the proposed rule:**

Although comments in this matter will be taken through October 8, 1998, companies or other interested persons are requested to file written comments on or before 4:00 p.m. on September 18, 1998. Companies or other interested persons (including the Utilities Division Staff) are requested to file written comments on or before 4:00 p.m. on October 2, 1998 in response to those comments filed on or before September 18, 1998.

Date: October 7, 1998

Time: 1:30 p.m.

Location: Hearing Room
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, Arizona 85007

Date: October 8, 1998

Time: 6 p.m.

Location: Commission Hearing Room 222
400 W. Congress Street
Tucson, Arizona 85701

10. Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules:
Not applicable

11. Incorporations by reference and their location in the rules:
Federal Energy Regulatory Commission

Order 888 (III FERC Stats. and Regs. & 31, 036, 1996) incorporated in R14-2-1606(D)(5)

12. The full text of the rules follows:

TITLE 14. PUBLIC SERVICE CORPORATIONS; CORPORATIONS AND ASSOCIATIONS; SECURITIES REGULATION

CHAPTER 2. CORPORATION COMMISSION – FIXED UTILITIES

ARTICLE 2. ELECTRIC UTILITIES

Section
R14-2-203. Establishment of service
R14-2-204. Minimum customer information requirements
R14-2-208. Provision of service
R14-2-209. Meter reading
R14-2-210. Billing and collection
R14-2-211. Termination of service

ARTICLE 16. RETAIL ELECTRIC COMPETITION

R14-2-1601. Definitions
R14-2-1603. Certificates of Convenience and Necessity
R14-2-1604. Competitive Phases
R14-2-1605. Competitive Services
R14-2-1606. Services Required To Be Made Available ~~by Affected Utilities~~
R14-2-1607. Recovery of Stranded Cost of Affected Utilities
R14-2-1608. System Benefits Charges
R14-2-1609. Solar Portfolio Standard
R14-2-1610. Transmission and Distribution Access
~~R14-2-1610. Spot Markets and Independent System Operation~~
R14-2-1611. In-state Reciprocity
R14-2-1612. Rates
R14-2-1613. Service Quality, Consumer Protection, Safety, and Billing Requirements
R14-2-1614. Reporting Requirements
R14-2-1615. Administrative Requirements
R14-2-1616. Separation of Monopoly and Competitive Services
~~R14-2-1616. Legal Issues~~
R14-2-1617. Affiliate Transactions
R14-2-1618. Disclosure of Information

ARTICLE 2. ELECTRIC UTILITIES

R14-2-203. Establishment of service

A. No change.

B. Deposits

1. A utility shall not require a deposit from a new applicant for residential service if the applicant is able to meet any of the following requirements:
   a. The applicant has had service of a comparable nature with the utility ~~at another service location~~ within the past 2 years and was not delinquent in payment more than twice during the last 12 consecutive months or disconnected for nonpayment.
   b. The applicant can produce a letter regarding credit or verification from an electric utility where service of a comparable nature was last received which states applicant had a timely payment history at time of service discontinuance.
   c. In lieu of a deposit, a new applicant may provide a Letter of Guarantee from a governmental or non-profit entity ~~an existing customer with service and acceptable to the utility~~ or a surety bond as security for the utility.
2. The utility shall issue a nonnegotiable receipt to the applicant for the deposit. The inability of the customer to produce such a receipt shall in no way impair his right to receive a refund of the deposit which is reflected on the utility's records.
3. Deposits shall be interest bearing; the interest rate and method of calculation shall be filed with and approved by the Commission in a tariff proceeding.
4. Each utility shall file a deposit refund procedure with the Commission, subject to Commission review and approval during a tariff proceeding. However, each utility's refund policy shall include provisions for residential deposits and accrued interest to be refunded or letters of guarantee or surety bonds to expire after 12 months of service if the customer has not been delinquent more than twice in the payment of utility bills.
5. A utility may require a residential customer to establish or reestablish a deposit if the customer becomes delinquent in the payment of 2 ~~three or more~~ bills within a 12 consecutive month period or has been disconnected for service during the last 12 months.
6. The amount of a deposit required by the utility shall be determined according to the following terms:
   a. Residential customer deposits shall not exceed two times that customer's estimated average monthly bill.
   b. Nonresidential customer deposits shall not exceed two and one-half times that customer's estimated maximum monthly bill.
7. The utility may review the customer's usage after service has been connected and adjust the deposit amount based upon the customer's actual usage.
8. A separate deposit may be required for each meter installed.

C. No change.

D. Service establishments, re-establishments or reconnection charge.

1. Each utility may make a charge as approved by the Commission for the establishment, reestablishment, or

reconnection of utility services, including transfers between Electric Service Providers.

2. Should service be established during a period other than regular working hours at the customer's request, the customer may be required to pay an after-hour charge for the service connection. Where the utility scheduling will not permit service establishment on the same day requested, the customer can elect to pay the after-hour charge for establishment that day or his service will be established on the next available normal working day.
3. For the purpose of this rule, the definition of service establishments are where the customer's facilities are ready and acceptable to the utility and the utility needs only to install a meter, read a meter, or turn the service on.
4. Service establishments with an Electric Service Provider will be scheduled for the next regular meter read date if the direct access service request is processed 15 calendar days prior to that date and appropriate metering equipment is in place. If a direct access service request is made in less than 15 days prior to the next regular read date, service will be established at the next regular meter read date thereafter. The utility may offer after-hours or earlier service for a fee.

E. No change.

R14-2-204. Minimum customer information requirements

A. Information for residential customers
1. A utility shall make available upon customer request not later than 60 days from the date of request a concise summary of the rate schedule applied for by such customer. The summary shall include the following:
   a. The monthly minimum or customer charge, identifying the amount of the charge and the specific amount of usage included in the minimum charge, where applicable.
   b. Rate blocks, where applicable.
   c. Any adjustment factor or factors and method of calculation.
2. The utility shall to the extent practical identify its ~~the~~ tariff that is most advantageous to the customer and notify the customer of such prior to service commencement.
3. In addition, a utility shall make available upon customer request, not later than 60 days from date of service commencement, a concise summary of the utility's tariffs or the Commission's rules and regulations concerning:
   a. Deposits
   b. Termination of service
   c. Billing and collection
   d. Complaint handling.
4. Each utility upon request of a customer shall transmit a written statement of actual consumption by such customer for each billing period during the prior 12 months unless such data is not reasonably ascertainable.
5. Each utility shall inform all new customers of their right to obtain the information specified above.

B. No change.

R14-2-208. Provision of Service

A. Utility responsibility
1. Each utility shall be responsible for the safe transmission and/or distribution of electricity until it passes the point of delivery to the customer.
2. The entity having control of the meter ~~Each utility~~ shall be responsible for maintaining in safe operating condition all meters, equipment and fixtures installed on the customer's premises by the entity ~~utility~~ for the purposes of delivering electric ~~utility~~ service to the customer.
3. The Utility Distribution Company ~~utility~~ may, at its option, refuse service until the customer has obtained all required permits and/or inspections indicating that the customer's facilities comply with local construction and safety standards.

B. No change.
C. No change.
D. No change.
E. No change.
F. No change

R14-2-209. Meter Reading

A. Company or customer meter reading
1. Each utility, billing entity or Meter Reading Service Provider may at its discretion allow for customer reading of meters.
2. It shall be the responsibility of the utility or Meter Reading Service Provider to inform the customer how to properly read his or her meter.
3. Where a customer reads his or her own meter, the utility or Meter Reading Service Provider will read the customer's meter at least once every six months.
4. The utility, billing entity or Meter Reading Service Provider shall provide the customer with postage-paid cards or other methods to report the monthly reading. ~~to the utility.~~
5. Each utility or Meter Reading Service Provider shall specify the timing requirements for the customer to submit his or her monthly meter reading to conform with the utility's billing cycle.
6. Where the Electric Service Provider is responsible for meter reading, reads will be available for the Utility Distribution Company's or billing entity's billing cycle for that customer, or as otherwise agreed upon by the Electric Service Provider and the Utility Distribution Company or billing entity.
~~6.~~7. In the event the customer fails to submit the reading on time, the utility or billing entity may issue the customer an estimated bill.
8. In the event the Electric Service Provider responsible for meter reading fails to deliver reads to the Meter Reader Service Provider server within 3 days of the scheduled cycle read date, the Affected Utility may estimate the reads.
~~7.~~9. Meters shall be read monthly on as close to the same day as practical.

B. Measuring of service
1. All energy sold to customers and all energy consumed by the utility, except that sold according to fixed charge schedules, shall be measured by commercially acceptable measuring devices ~~owned and maintained by the utility~~, except where it is impractical to install meters, such as street lighting or security lighting, or where otherwise authorized by the Commission.
2. When there is more than one meter at a location, the metering equipment shall be so tagged or plainly marked as to indicate the circuit metered or metering equipment.
3. Meters which are not direct reading shall have the multiplier plainly marked on the meter.
4. All charts taken from recording meters shall be marked with the date of the record, the meter number, customer, and chart multiplier.

5. Metering equipment shall not be set "fast" or "slow" to compensate for supply transformer or line losses.

C. Meter ~~Customer requested~~ rereads

1. Each utility or Meter Reading Service Provider shall at the request of a customer, or the customer's Electric Service Provider, Utility Distribution Company (as defined in A.A.C. R14-2-1601) or billing entity reread that customer's meter within ten working days after such a request. ~~by the customer.~~
2. Any reread may be charged to the customer, or the customer's Electric Service Provider, Utility Distribution Company (as defined in A.A.C. R14-2-1601) or billing entity at a rate on file and approved by the Commission, provided that the original reading was not in error.
3. When a reading is found to be in error, the reread shall be at no charge to the customer, or the customer's Electric Service Provider, Utility Distribution Company (as defined in A.A.C. R14-2-1601) or billing entity.

D. Access to customer premises

~~1.~~Each utility shall have the right of safe ingress to and egress from the customer's premises at all reasonable hours for any purpose reasonably connected with ~~the utility's~~ property used in furnishing service and the exercise of any and all rights secured to it by law or these rules.

E. No change.

F. Request for ~~Customer requested~~ meter tests

~~1.~~A utility or Meter Service Provider shall test a meter upon the request of the customer, or the customer's Electric Service Provider, Utility Distribution Company (as defined in A.A.C. R14-2-1601) or billing entity request, and each utility or billing entity shall be authorized to charge the customer, or the customer's Electric Service Provider, Utility Distribution Company (as defined in A.A.C. R14-2-1601) or billing entity for such meter test according to the tariff on file and approved by the Commission. However, if the meter is found to be in error by more than 3%, no meter testing fee will be charged to the customer, or the customer's Electric Service Provider, Utility Distribution Company or billing entity.

R14-2-210. Billing and collection

A. Frequency and estimated bills

1. Unless otherwise approved by the Commission, the utility or billing entity shall render a bill for each billing period to every customer in accordance with its applicable rate schedule and may offer billing options for the services rendered. Meter readings shall be scheduled for periods of not less than 25 days without customer authorization or more than 35 days. If the utility or Meter Reading Service Provider changes a meter reading route or schedule resulting in a significant alteration of billing cycles, notice shall be given to the affected customers.

~~1. Each utility shall bill monthly for services rendered. Meter readings shall be scheduled for periods of not less than 25 days or more than 35 days.~~

2. Each billing statement rendered by the utility or billing entity shall be computed on the actual usage during the billing period. If the utility or Meter Reading Service Provider is unable to obtain an actual reading, the utility or billing entity may estimate the consumption for the billing period giving consideration the following factors where applicable:
   a. The customer's usage during the same month of the previous year,
   b. The amount of usage during the preceding month.

~~2. If the utility is unable to read the meter on the scheduled meter read date, the utility will estimate the consumption for the billing period giving consideration to the following factors where applicable:~~
   ~~a. The customer's usage during the same month of the previous year.~~
   ~~b. The amount of usage during the preceding month.~~

3. Estimated bills will be issued only under the following conditions unless otherwise approved by the Commission:
   a. When extreme weather conditions, emergencies, or work stoppages prevent actual meter readings.
   b. Failure of a customer who reads his own meter to deliver his meter reading to the utility or Meter Reading Service Provider in accordance with the requirements of the utility or Meter Reading Service Provider billing cycle.
   c. When the utility or Meter Reading Service Provider is unable to obtain access to the customer's premises for the purpose of reading the meter, or in situations where the customer makes it unnecessarily difficult to gain access to the meter, that is, locked gates, blocked meters, vicious or dangerous animals, etc. If the utility or Meter Reading Service Provider is unable to obtain an actual reading for these reasons, it shall undertake reasonable alternatives to obtain a customer reading of the meter.
   d. Due to customer equipment failure, a 1-month estimation will be allowed. Failure to remedy the customer equipment condition will result in penalties as imposed by the Commission.
   e. To facilitate timely billing for customers using load profiles.

~~3. After the second consecutive month of estimating the customer's bill for reasons other than severe weather, the utility will attempt to secure an accurate reading of the meter.~~

4. After the third consecutive month of estimating the customer's bill due to lack of meter access, the utility or Meter Reading Service Provider will attempt to secure an accurate reading of the meter. Failure on the part of the customer to comply with a reasonable request for meter access may lead to discontinuance of service.

~~4. Failure on the part of the customer to comply with a reasonable request by the utility for access to its meter may lead to the discontinuance of service.~~

5. A utility or billing entity may not render a bill based on estimated usage if:
   a. The estimating procedures employed by the utility or billing entity have not been approved by the Commission.
   b. The billing would be the customer's first or final bill for service.
   c. If the customer is a direct access customer requiring load data.

~~5. Estimated bills will be issued only under the following conditions:~~
   ~~a. Failure of a customer who read his own meter to deliver his meter reading card to the utility in accordance with the requirements of the utility billing cycle.~~
   ~~b. Severe weather conditions which prevent the utility from reading the meter.~~
   ~~c. Circumstances that make it dangerous or impossible to read the meter, i.e., locked gates, blocked meters, vicious or dangerous animals, etc.~~

6. When a utility or billing entity renders an estimated bill in accordance with these rules, it shall:
   a. Maintain accurate records of the reasons therefore and efforts made to secure an actual reading;
   b. Clearly and conspicuously indicate that it is an estimated bill and note the reason for its estimation;
   c. Use customer supplied meter readings, whenever possible, to determine usage.

~~6. Each bill based on estimated usage will indicate that it is an estimated bill.~~

B. Combining meters, minimum bill information

1. Each meter at a customer's premise will be considered separately for billing purposes, and the readings of two or more meters will not be combined unless otherwise provided for in the utility's tariffs. This provision does not apply in the case of aggregation of competitive services as described in A.A.C. R14-2-1601.
2. Each bill for residential service will contain the following minimum information:
   a. The beginning and ending meter readings of the billing period, the dates thereof, and the number of days in the billing period;
   ~~a. Date and meter reading at the start of billing period or number of days in the billing period~~
   b. The date when the bill will be considered due and the date when it will be delinquent, if not the same;
   ~~b. Date and meter reading at the end of the billing period~~
   c. Billing usage, demand, basic monthly service charge and total amount due;
   ~~c. Billed usage and demand~~
   d. Rate schedule number or service offer;
   e. Customer's name and service account number;
   ~~e. Utility telephone number~~
   f. Any previous balance;
   ~~f. Customer's name~~
   g. Fuel adjustment cost, where applicable;
   ~~g. Service account number~~
   h. License, occupation, gross receipts, franchise and sales taxes;
   ~~h. Amount due and due date~~
   i. The address and telephone numbers of the Electric Service Provider, and/or the Utility Distribution Company designating where the customer may initiate an inquiry or complaint concerning the bill or services rendered;
   ~~i. Past due amount~~
   j. The Arizona Corporation Commission address and toll free telephone numbers;
   ~~j. Adjustment factor, where applicable~~
   k. Other unbundled rates and charges.
   ~~k. Taxes~~
   ~~l. The Arizona Corporation Commission and address, thereof.~~

C. Billing terms

1. All bills for utility services are due and payable no later than 15 days from the date of the bill. Any payment not received within this time frame shall be considered delinquent and could incur a late payment charge.

~~1. All bills for utility services are due and payable no later than ten days from the date the bill is rendered. Any payment not received within this time frame shall be considered past due.~~

2. For purposes of this rule, the date a bill is rendered may be evidenced by:
   a. The postmark date;
   b. The mailing date;
   c. The billing date shown on the bill (however, the billing date shall not differ from the postmark or mailing date by more than 2 days)~~.~~;
   d. The transmission date for electronic bills.
3. All delinquent bills shall be subject to the provisions of the utility's termination procedures.

~~3. All past due bills for utility services are due and payable within 15 days. Any payment no received within this time frame shall be considered delinquent.~~

4. All payments shall be made at or mailed to the office of the utility or to the utility's authorized payment agency or the office of the billing entity. The date on which the utility actually receives the customer's remittance is considered the payment date.

~~4. All delinquent bills for which payment has not been received within five days shall be subject to the provisions of the utility's termination procedures.~~

~~5. All payments shall be made at or mailed to the office of the utility or to the utility's duly authorized representative.~~

D. Applicable tariffs, prepayment, failure to receive, commencement date, taxes

1. Each customer shall be billed under the applicable tariff indicated in the customer's application for service.
2. Each utility or billing entity shall make provisions for advance payment of utility services.
3. Failure to receive bills or notices which have been properly placed in the United States mail shall not prevent such bills from becoming delinquent nor relieve the customer of his obligations therein.
4. Charges for electric service commence when the service is actually installed and connection made, whether used or not. A minimum one-month billing period is established on the date the service is installed (excluding landlord/utility special agreements).

~~4. Charges for utility service commence when the service is actually installed and connection made, whether used or not.~~

5. Charges for services disconnected after 1 month shall be prorated back to the customer of record.

E. Meter error corrections

1. The utility or Meter Reading Service Provider shall test a meter upon customer request and each utility or billing entity shall be authorized to charge the customer for such meter test according to the tariff on file approved by the Commission. However, if the meter is found to be in error by more than 3%, no meter testing fee may be charged to the customer. If the meter is found to be more than 3% in error, either fast or slow, the correction of previous bills will be made under the following terms allowing the utility or billing entity to recover or refund the difference:
   a. If the date of the meter error can be definitely fixed, the utility or billing entity shall adjust the customer's billings back to that date. If the customer has been underbilled, the utility or billing entity will allow the customer to repay this difference over an equal length of time that the underbillings occurred. The customer may be allowed to pay the backbill without late payment penalties, unless there is evidence of meter tampering or energy diversion.

b. If it is determined that the customer has been overbilled and there is no evidence of meter tampering or energy diversion, the utility or billing entity will make prompt refunds in the difference between the original billing and the corrected billing within the next billing cycle.

~~1. If any meter after testing is found to be more than 3% in error, either fast or slow, proper correction between 3% and the amount of the error shall be made of previous readings and adjusted bills shall be rendered according to the following terms:~~

~~a. For the period of three months immediately preceding the removal of such meter from service for test or from the time the meter was in service since last tested, but not exceeding three months since the meter shall have been shown to be in error by such test.~~

~~b. From the date the error occurred, if the date of the cause can be definitely fixed.~~

2. No adjustment shall be made by the utility except to the customer last served by the meter tested.

3. Any underbilling resulting from a stopped or slow meter, utility or Meter Reading Service Provider meter reading error, or a billing calculation shall be limited to 3 months for residential customers and 6 months for non-residential customers. However, if an underbilling by the utility occurs due to inaccurate, false or estimated information from a third party, then that utility will have a right to back bill that third party to the point in time that may be definitely fixed, or 12 months. No such limitation will apply to overbillings.

F. Insufficient funds (NSF) or returned checks

1. A utility or billing entity shall be allowed to recover a fee, as approved by the Commission in a tariff proceeding, for each instance where a customer tenders payment for electric service with a check which is returned by the customer's bank.

~~1. A utility shall be allowed to recover a fee, as approved by the Commission in a tariff proceeding, for each instance where a customer tenders payment for utility service with an insufficient funds check.~~

2. When the utility or billing entity is notified by the customer's bank that the check tendered for utility service will not clear, the utility or billing entity may require the customer to make payment in cash, by money order, certified check, or other means to guarantee the customer's payment.

~~2. When the utility is notified by the customer's bank that there are insufficient funds to cover the check tendered for utility service, the utility may require the customer to make payment in cash, by money order, certified check, or other means which guarantee the customer's payment to the utility.~~

3. A customer who tenders such a check shall in no way be relieved of the obligation to render payment to the utility or billing entity under the original terms of the bill nor defer the utility's provision of termination of service for nonpayment of bills.

~~3. A customer who tenders an insufficient check shall in no way be relieved of the obligation to render payment to the utility under the original terms of the bill nor defer the utility's provision for termination of service for nonpayment of bills.~~

G. Levelized billing plan

1. Each utility may, at its option, offer its residential customers a levelized billing plan.
2. Each utility offering a levelized billing plan shall develop, upon customer request, an estimate of the customer's levelized billing for a 12-month period based upon:
   a. Customer's actual consumption history, which may be adjusted for abnormal conditions such as weather variations.
   b. For new customers, the utility will estimate consumption based on the customer's anticipated load requirements.
   c. The utility's tariff schedules approved by the Commission applicable to that customer's class of service.
3. The utility shall provide the customer a concise explanation of how the levelized billing estimate was developed, the impact of levelized billing on a customer's monthly utility bill, and the utility's right to adjust the customer's billing for any variation between the utility's estimated billing and actual billing.
4. For those customers being billed under a levelized billing plan, the utility shall show, at a minimum, the following information on their ~~the customer's~~ monthly bill:
   a. Actual consumption
   b. Dollar amount ~~Amount~~ due for actual consumption
   c. Levelized billing amount due
   d. Accumulated variation in actual versus levelized billing amount.
5. The utility may adjust the customer's levelized billing in the event the utility's estimate of the customer's usage and/or cost should vary significantly from the customer's actual usage and/or cost; such review to adjust the amount of the levelized billing may be initiated by the utility or upon customer request.

H. Deferred payment plan

1. Each utility may, prior to termination, offer to qualifying residential customers a deferred payment plan for the customer to retire unpaid bills for utility service.
2. Each deferred payment agreement entered into by the utility and the customer shall provide that service will not be discontinued if:

~~2. Each deferred payment agreement entered into by the utility and the customer due to the customer's inability to pay an outstanding bill in full shall provide that service will not be discontinued if:~~

   a. Customer agrees to pay a reasonable amount of the outstanding bill at the time the parties enter into the deferred payment agreement.
   b. Customer agrees to pay all future bills for utility service in accordance with the billing and collection tariffs of the utility.
   c. Customer agrees to pay a reasonable portion of the remaining outstanding balance in installments over a period not to exceed six months.
3. For the purposes of determining a reasonable installment payment schedule under these rules, the utility and the customer shall give consideration to the following conditions:
   a. Size of the delinquent account
   b. Customer's ability to pay
   c. Customer's payment history
   d. Length of time that the debt has been outstanding
   e. Circumstances which resulted in the debt being outstanding

f. Any other relevant factors related to the circumstances of the customer.

4. Any customer who desires to enter into a deferred payment agreement shall establish such agreement prior to the utility's scheduled termination date for nonpayment of bills. The customer's failure to execute such an agreement prior to the termination date will not prevent the utility from disconnecting service for nonpayment.

~~4. Any customer who desires to enter into a deferred payment agreement shall establish such agreement prior to the utility's scheduled termination date for nonpayment of bills; customer failure to execute a deferred payment agreement prior to the scheduled termination date shall not prevent the utility from discontinuing service for non-payment.~~

5. Deferred payment agreements may be in writing and may be signed by the customer and an authorized utility representative.

6. A deferred payment agreement may include a finance charge as approved by the Commission in a tariff proceeding.

7. If a customer has not fulfilled the terms of a deferred payment agreement, the utility shall have the right to disconnect service pursuant to the utility's termination of service rules. ~~and,~~ Under ~~under~~ such circumstances, it shall not be required to offer subsequent negotiation of a deferred payment agreement prior to disconnection.

I. Change of occupancy

1. To order service discontinued or to change occupancy, the customer must give the utility at least 3 working days advance notice in person, in writing, or by telephone.

~~1. Not less than three working days advance notice must be given in person, in writing, or by telephone at the company's office to discontinue service or to change occupancy.~~

2. The outgoing customer ~~party~~ shall be responsible for all utility services provided and/or consumed up to the scheduled turnoff date.

3. The outgoing customer is responsible for providing access to the meter so that the utility may obtain a final meter reading.

R14-2-211. Termination of service

A. Nonpermissible reasons to disconnect service

1. A utility may not disconnect service for any of the reasons stated below:
   a. Delinquency in payment for services rendered to a prior customer at the premises where service is being provided, except in the instance where the prior customer continues to reside on the premises.
   b. Failure of the customer to pay for services or equipment which are not regulated by the Commission.
   c. Nonpayment of a bill related to another class of service.
   d. Failure to pay for a bill to correct a previous underbilling due to an inaccurate meter or meter failure if the customer agrees to pay over a reasonable period of time.
   e. A utility shall not terminate residential service where the customer has an inability to pay and:
      i. The customer can establish through medical documentation that, in the opinion of a licensed medical physician, termination would be especially dangerous to the customer's or a permanent resident residing on the customer's premises health, or
      ii. Life supporting equipment used in the home that is dependent on utility service for operation of such apparatus, or
      iii. Where weather will be especially dangerous to health as defined herein or as determined by the Commission.
   f. Residential service to ill, elderly, or handicapped persons who have an inability to pay will not be terminated until all of the following have been attempted:
      i. The customer has been informed of the availability of funds from various government and social assistance agencies of which the utility is aware.
      ii. A third party previously designated by the customer has been notified and has not made arrangements to pay the outstanding utility bill.
   g. A customer utilizing the provisions of d.~~e.~~ or e.~~f.~~ above may be required to enter into a deferred payment agreement with the utility within 10 days after the scheduled termination date.
   ~~h. Failure to pay the bill of another customer as guarantor thereof.~~
   ~~i.~~h. Disputed bills where the customer has complied with the Commission's rules on customer bill disputes.

B. Termination of service without notice

1. In a competitive marketplace, the Electric Service Provider cannot order a disconnect for non-payment, but can only send a notice of contract cancellation to the customer and the Utility Distribution Company. Utility service may be disconnected without advance written notice under the following conditions:
   a. The existence of an obvious hazard to the safety or health of the consumer or the general population or the utility's personnel or facilities.
   b. The utility has evidence of meter tampering or fraud.
   c. Failure of a customer to comply with the curtailment procedures imposed by a utility during supply shortages.
2. The utility shall not be required to restore service until the conditions which resulted in the termination have been corrected to the satisfaction of the utility.
3. Each utility shall maintain a record of all terminations of service without notice. This record shall be maintained for a minimum of one year and shall be available for inspection by the Commission.

C. Termination of service with notice

1. In a competitive marketplace, the Electric Service Provider cannot order a disconnect for non-payment, but can only send a notice of contract cancellation to the customer and the Utility Distribution Company. A utility may disconnect service to any customer for any reason stated below provided the utility has met the notice requirements established by the Commission:
   a. Customer violation of any of the utility's tariffs.
   b. Failure of the customer to pay a delinquent bill for utility service.
   c. Failure to meet or maintain the utility's deposit requirements.

d. Failure of the customer to provide the utility reasonable access to its equipment and property.
e. Customer breach of a written contract for service between the utility and customer.
f. When necessary for the utility to comply with an order of any governmental agency having such jurisdiction.

2. Each utility shall maintain a record of all terminations of service with notice. This record shall be maintained for one year and be available for Commission inspection.

D. No change.
E. No change.
F. No change.

ARTICLE 16. RETAIL ELECTRIC COMPETITION

R14-2-1601. Definitions

In this Article, unless the context otherwise requires:

1. No change.
2. "Aggregator" means an Electric Service Provider that combines retail electric customers into a purchasing group.
3. "Bundled Service" means electric service provided as a package to the consumer including all generation, transmission, distribution, ancillary and other services necessary to deliver and measure useful electric energy and power to consumers.
4. "Buy-through" refers to a purchase of electricity by an Affected Utility at wholesale for a particular retail consumer or aggregate of consumers or at the direction of a particular retail consumer or aggregate of consumers.
5. "Competition Transition Charge" (CTC) is a means of recovering Stranded Costs from the customers of competitive services.
6. "Competitive Services" means all aspects of retail electric service except those services specifically defined as "noncompetitive services" pursuant to R14-2-1601(29).
7. "Control Area Operator" is the operator of an electric system or systems, bounded by interconnection metering and telemetry, capable of controlling generation to maintain its interchange schedule with other such systems and contributing to frequency regulation of the interconnection.
8. "Consumer Information" is impartial information provided to consumers about competition or competitive and noncompetitive services and is distinct from advertising and marketing.
9. "Current Transformer" (CT) is an electrical device used in conjunction with an electric meter to provide a measurement of energy consumption for metering purposes.
10. "Direct Access Service Request" (DASR) means a form that contains all necessary billing and metering information to allow customers to switch electric service providers. This form must be submitted to the Utility Distribution Company by the customer's Electric Service Provider or the customer.
11. "Delinquent Accounts" means customer accounts with outstanding past due payment obligations that remain unpaid after the due date.
12. "Distribution Primary Voltage" is voltage as defined under the Affected Utility's Federal Energy Regulatory Commission (FERC) Open Access Transmission Tariff, except for Meter Service Providers, for which Distribution Primary Voltage is voltage at or above 600 volts (600V) through and including 25 kilovolts (25 kV).
13. "Distribution Service" means the delivery of electricity to a retail consumer through wires, transformers, and other devices that are not classified as transmission services subject to the jurisdiction of the Federal Energy Regulatory Commission; Distribution Service excludes Metering Services, Meter Reading Services, and billing and collection services, as those terms are used herein. ~~meters and meter reading.~~
14. "Electronic Data Interchange" (EDI) is the computer-to-computer electronic exchange of business documents using standard formats which are recognized both nationally and internationally.
15. "Electric Service Provider" (ESP) means a company supplying, marketing, or brokering at retail any of the competitive services described in R14-2-1605 or R14-2-1606, pursuant to a Certificate of Convenience and Necessity.
16. ~~"Eligible Demand" means the total consumer kilowatts of demand which an Affected Utility must make available to competitive generation under the terms of this Article or the consumer kilowatts of demand provided competitively in an Affected Utility's distribution territory, whichever is greater.~~
17. "Electric Service Provider Service Acquisition Agreement" or "Service Acquisition Agreement" means a contract between an Electric Service Provider and a Utility Distribution Company to deliver power to retail end users or between an Electric Service Provider and a Scheduling Coordinator to schedule transmission service.
18. "Generation" means the production of electric power or contract rights to the receipt of wholesale electric power.
19. "Green Pricing" means a program offered by an Electric Service Provider where customers elect to pay a rate premium for solar-generated electricity.
20. "Independent Scheduling Administrator" (ISA) is a proposed entity, independent of transmission owning organizations, intended to facilitate nondiscriminatory retail direct access using the transmission system in Arizona.
21. "Independent System Operator" (ISO) is an independent organization whose objective is to provide nondiscriminatory and open transmission access to the interconnected transmission grid under its jurisdiction, in accordance with the Federal Energy Regulatory Commission principles of independent system operation.
22. "Load Profiling" is a process of estimating a customer's hourly energy consumption based on measurements of similar customers.
23. "Load-Serving Entity" means an Electric Service Provider, Affected Utility or Utility Distribution Company, excluding a Meter Reading Service, Meter Reading Service Provider or Aggregators.
24. "Meter Reading Service" means all functions related to the collection and storage of consumption data.
25. "Meter Reading Service Provider" (MRSP) means an entity providing Meter Reading Service, as that term is defined herein and that reads meters, performs validation, editing, and estimation on raw meter data to create validated meter data; translates validated data to an approved format; posts this data to a server for retrieval by billing agents; manages the server; exchanges data with market participants; and stores meter data for problem resolution.

25. "Meter Service Provider" (MSP) means an entity providing Metering Service, as that term is defined herein.
26. "Metering and Metering Service" means all functions related to measuring electricity consumption.
27. "Must-Run Generating Units" are those units that are required to run to maintain distribution system reliability and meet load requirements in times of congestion on certain portions of the interconnected transmission grid.
28. "Net Metering" or "Net Billing" is a method by which customers can use electricity from customer-sited solar electric generators to offset electricity purchased from an Electric Service Provider. The customer only pays for the "Net" electricity purchased.
29. "Noncompetitive Services" means distribution service, Standard Offer service transmission and Federal Energy Regulatory Commission-required ancillary services, and these aspects of metering service set forth in R14-2-1613. All components of Standard Offer service shall be deemed noncompetitive as long as those components are provided in a bundled transaction pursuant to R14-2-1606(A).
30. "OASIS" is Open Access Same-Time Information System, which is an electronic bulletin board where transmission-related information is posted for all interested parties to access via the Internet to enable parties to engage in transmission transactions.
31. "Operating Reserve" means the generation capability above firm system demand used to provide for regulation, load forecasting error, equipment forced and scheduled outages, and local area protection to provide system reliability.
32. "Potential Transformer" (PT) is an electrical device used to step down primary voltages to 120V for metering purposes.
33. "Provider of Last Resort" means a provider of Standard Offer Service to customers within the provider's certificated area who are not buying competitive services.
34. "Retail Electric Customer" means the person or entity in whose name service is rendered.
35. "Scheduling Coordinator" means an entity that provides schedules for power transactions over transmission or distribution systems to the party responsible for the operation and control of the transmission grid, such as a Control Area Operator, Independent Scheduling Administrator or Independent System Operator.
36. "Self-Aggregation" is the action of a retail electric customer that combines its own metered loads into a single purchase block.
37. "Solar Electric Fund" is the funding mechanism established by this Article through which deficiency payments are collected and solar energy projects are funded in accordance with this Article.

~~7.~~38. "Standard Offer" means Bundled Service offered by the Affected Utility or Utility Distribution Company to all consumers in the Affected Utility's or Utility Distribution Company's service territory ~~in a designated area~~ at regulated rates including metering, meter reading, billing, collection services and other consumer information services.

~~8.~~39. "Stranded Cost" includes: ~~means the~~

a. The verifiable net difference between:

~~a.~~i. The value of all the prudent jurisdictional assets and obligations necessary to furnish electricity (such as generating plants, purchased power contracts, fuel contracts, and regulatory assets), acquired or entered into prior to the adoption of this Article, under traditional regulation of Affected Utilities; and

~~b.~~ii. The market value of those assets and obligations directly attributable to the introduction of competition under this Article~~.~~;

b. Reasonable costs necessarily incurred by an Affected Utility to effectuate divestiture of its generation assets;

c. Reasonable employee severance and retraining costs necessitated by electric competition, where not otherwise provided.

~~9.~~40. "System Benefits" means Commission-approved utility low income, demand side management, environmental, renewables, and nuclear power plant decommissioning programs.

41. "Transmission Primary Voltage" is voltage above 25 kV as it relates to metering transformers.
42. "Transmission Service" refers to the transmission of electricity to retail electric customers or to electric distribution facilities and that is so classified by the Federal Energy Regulatory Commission or, to the extent permitted by law, so classified by the Arizona Corporation Commission.

~~10.~~43. "Unbundled Service" means electric service elements provided and priced separately, including, but not limited to, such service elements as generation, transmission, distribution, metering, meter reading, billing and collection and ancillary services. Unbundled Service may be sold to consumers or to other Electric Service Providers.

44. "Utility Distribution Company" (UDC) means the electric utility entity that constructs and maintains the distribution system for the delivery of power to the end user.
45. "Utility Industry Group" (UIG) refers to a utility industry association that establishes national standards for data formats.
46. "Universal Node Identifier" is a unique, permanent, identification number assigned to each service delivery point.

R14-2-1603. Certificates of Convenience and Necessity

A. Any Electric Service Provider intending to supply services described in R14-2-1605 or R-14-2-1606, other than services subject to federal jurisdiction, shall obtain a Certificate of Convenience and Necessity from the Commission pursuant to this Article~~; however,~~. A ~~a~~ Certificate is not required to offer information services, ~~or~~ billing and collection services, or self-aggregation. However, aggregators as defined in R14-2-1601 are required to obtain a Certificate of Convenience and Necessity and Self-Aggregators are required to negotiate a Service Acquisition Agreement consistent with subsection G(6). An Affected Utility need not apply for a Certificate of Convenience and Necessity to continue to provide electric service in its service area during the transition period set forth in R14-2-1604. An Affected Utility providing distribution and Standard Offer service after January 1, 2001 need not apply for a Certificate of Convenience and Necessity. All other Affected Utility affiliates created in compliance with R14-2-1616(A) shall be required to apply for appropriate Certificates of Convenience and Necessity. ~~An Affected Utility does not need to apply for a Certificate of Convenience and Necessity for any service provided as of the date of adoption of this Article within its distribution service territory.~~

B. Any company desiring such a Certificate of Convenience and Necessity shall file with the Docket Control Center the

required number of copies of an application. ~~Such Certificates shall be restricted to geographical areas served by the Affected Utilities as of the date this Article is adopted and to service areas added under the provisions of R14-2-1611.~~ In support of the request for a Certificate of Convenience and Necessity, the following information must be provided:

1. A description of the electric services which the applicant intends to offer;
2. The proper name and correct address of the applicant, and
   a. The full name of the owner if a sole proprietorship,
   b. The full name of each partner if a partnership,
   c. A full list of officers and directors if a corporation, or
   d. A full list of the members if a limited liability corporation;
3. A tariff for each service to be provided that states the maximum rate and terms and conditions that will apply to the provision of the service;
4. A description of the applicant's technical ability to obtain and deliver electricity if appropriate and provide any other proposed services;
5. Documentation of the financial capability of the applicant to provide the proposed services, including the most recent income statement and balance sheet, the most recent projected income statement, and other pertinent financial information. Audited information shall be provided if available;
6. A description of the form of ownership (for example, partnership, corporation);
7. All relevant tax licenses from lawful taxing authorities within the State of Arizona;
8. Such other information as the Commission or the staff may request.

C. The applicant shall report in a timely manner during the application process any changes in the information initially reported to the Commission in the application for a Certificate of Convenience and Necessity.

D. The applicant shall provide public notice of the application as required by the Commission.

~~C.~~E. At the time of filing for a Certificate of Convenience and Necessity, each applicant shall notify the Affected Utilities, Utility Distribution Companies or an electric utility not subject to the jurisdiction of the Arizona Corporation Commission in whose service territories it wishes to offer service of the application by serving notification ~~a complete copy~~ of the application on the Affected Utilities, Utility Distribution Companies or an electric utility not subject to the jurisdiction of the Arizona Corporation Commission. Prior to Commission action, each applicant shall provide written notice to the Commission that it has provided notification to each of the respective Affected Utilities, Utility Distribution Companies or an electric utility not subject to the jurisdiction of the Arizona Corporation Commission.

F. The Commission may issue a Certificate of Convenience and Necessity that is effective for a specified period of time if the applicant has limited or no experience in providing the retail electric service that is being requested. An applicant receiving such approval shall have the responsibility to apply for appropriate extensions.

~~D.~~G. The Commission may deny certification to any applicant who:

1. Does not provide the information required by this Article;
2. Does not possess adequate technical or financial capabilities to provide the proposed services;
3. Does not have Electric Service Provider Service Acquisition Agreement(s) with a Utility Distribution Company and Scheduling Coordinator, if the applicant is not its own Scheduling Coordinator;
4. ~~3.~~ Fails to provide a performance bond, if required~~.~~;
5. Fails to demonstrate that its certification will serve the public interest;
6. Fails to submit an executed Service Acquisition Agreement with a Utility Distribution Company or a Scheduling Coordinator for approval by the Director, Utilities Division prior to the offering of service to potential customers. A Request for approval of an executed Service Acquisition Agreement may be included with an application for a Certificate of Convenience and Necessity. In all negotiations relative to service acquisition agreements Affected Utilities or their successor entities are required to negotiate in good faith.

~~E.~~H. Every Electric Service Provider obtaining a Certificate of Convenience and Necessity under this Article shall obtain certification subject to the following conditions:

1. The Electric Service Provider shall comply with all Commission rules, orders, and other requirements relevant to the provision of electric service and relevant to resource planning;
2. The Electric Service Provider shall maintain accounts and records as required by the Commission;
3. The Electric Service Provider shall file with the Director, ~~of the~~ Utilities Division all financial and other reports that the Commission may require and in a form and at such times as the Commission may designate;
4. The Electric Service Provider shall maintain on file with the Commission all current tariffs and any service standards that the Commission shall require;
5. The Electric Service Provider shall cooperate with any Commission investigation of customer complaints;
6. The Electric Service Provider shall obtain all necessary permits and licenses;
7. The Electric Service Provider shall comply with all disclosure requirements pursuant to R14-2-1618;
8. ~~7.~~ Failure to comply with any of the above conditions may result in recision of the Electric Service Provider's Certificate of Convenience and Necessity.

~~F.~~I. In appropriate circumstances, the Commission may require, as a precondition to certification, the procurement of a performance bond sufficient to cover any advances or deposits the applicant may collect from its customers, or order that such advances or deposits be held in escrow or trust.

R14-2-1604. Competitive Phases

A. Each Affected Utility shall make available at least 20% of its 1995 system retail peak demand for competitive generation supply on a first-come, first-served basis as further described in this rule. ~~to all customer classes (including residential and small commercial consumers) not later than January 1, 1999. If data permit, coincident annual peak demand shall be used; otherwise noncoincident peak data may be used.~~

1. All Affected Utility customers with non-coincident peak demand load of 1 MW or greater will be eligible for competitive electric services no later than January 1, 1999. Customers meeting this requirement shall be eligible for competitive services until at least 20% of the Affected Utility's 1995 system peak demand is served by competition.

~~1. No more than 2 of the Eligible Demand may be procured by consumers, each of whose total competitive contract demand is greater than 3 MW;~~

~~2. At least 15% of the Eligible Demand shall be reserved for residential consumers;~~

~~3. Aggregation of loads of multiple consumers shall be permitted.~~

~~B. Each Affected Utility shall make available at least 50% of its 1995 system retail peak demand for competitive generation supply to all customer classes (including residential and small commercial consumers) not later than January 1, 2001. If data permit, coincident peak annual demand shall be used; otherwise noncoincident peak data may be used.~~

~~1. No more than 2 of the Eligible Demand may be procured by consumers, each of whose total competitive contract demand is greater than 3 MW.~~

2. Affected Utility customers with single premise noncoincident peak load demands of 40 kW or greater aggregated into a combined load of 1 MW or greater will be eligible for competitive electric services beginning January 1, 1999. Self-aggregation is also allowed pursuant to the minimum and combined load demands set forth in this rule. If peak load data are not available, the 40 kW criterion shall be determined to be met if the customer's usage exceeded 16,500 kWh in any month within the last 12 consecutive months. From January 1, 1999, through December 31, 2000, aggregation of new competitive customers will be allowed until such time as at least 20% of the Affected Utility's 1995 system peak demand is served by competitors. At that point all additional aggregated customers must wait until January 1, 2001 to obtain competitive service.

~~2. At least 30% of the Eligible Demand shall be reserved for residential consumers.~~

3. Affected Utilities shall notify customers eligible under this subsection of the terms of the subsection no later than October 31, 1998.

~~3. Aggregation of loads of multiple consumers shall be permitted.~~

B. As part of the minimum 20% of 1995 system peak demand set forth in R14-2-1604(A), each Affected Utility shall reserve a residential phase-in program with the following components:

1. A minimum of 2 of 1% of residential customers as of January 1, 1999 will have access to competitive electric services on January 1, 1999. The number of customers eligible for the residential phase-in program shall increase by an additional 2 of 1% every quarter until January 1, 2001.

2. Access to the residential phase-in program will be on a first-come, first-served basis. The Affected Utility shall create and maintain a waiting list to manage the residential phase-in program.

3. Load Profiling may be used; however, residential customers participating in the residential phase-in program may choose other metering options offered by their Electric Service Provider consistent with the Commission's rules on metering.

4. Each Affected Utility shall file a residential phase-in program proposal to the Commission for approval by Director, Utilities Division by September 15, 1998. Interested parties will have until September 29, 1998 to comment on any proposal. At a minimum, the residential phase-in program proposal will include specifics concerning the Affected Utility's proposed:

a. Process for customer notification of residential phase-in program;

b. Selection and tracking mechanism for customers based on first-come, first-served method;

c. Customer notification process and other education and information services to be offered;

d. Load Profiling methodology and actual load profiles, if available; and

e. Method for calculation of reserved load.

5. Each Affected Utility shall file quarterly residential phase-in program reports within 45 days of the end of each quarter. The first such report shall be due within 45 days of the quarter ending March 31, 1999. The final report due under this rule shall be due within 45 days of the quarter ending December 31, 2002. As a minimum, these quarterly reports shall include:

a. The number of customers and the load currently enrolled in residential phase-in program by energy service provider;

b. The number of customers currently on the waiting list;

c. A description and examples of all customer education programs and other information services including the goals of the education program and a discussion of the effectiveness of the programs; and

d. An overview of comments and survey results from participating residential customers.

C. Each Affected Utility shall file a report by September 15, 1998, detailing possible mechanisms to provide benefits, such as rate reductions of 3% - 5%, to all Standard Offer customers.

~~C. Prior to 2001, no single consumer shall receive more than 20% of the Eligible Demand in a given year in an Affected Utility's service territory.~~

D. All customers shall be eligible to obtain competitive electric services no later than January 1, 2001.

~~D. Each Affected Utility shall make available all of its retail demand for competitive generation supply not later than January 1, 2003.~~

~~E. By the date indicated in R14-2-1602, Affected Utilities shall propose for Commission review and approval how customers will be selected for participation in the competitive market prior to 2003.~~

~~1. Possible selection methods are 1st-come, 1st-served; random selection via a lottery among volunteering consumers; or designation of geographic areas.~~

~~2. The method for selecting customers to participate in the competitive market must fairly allow participation by a wide variety of customers of all sizes of loads.~~

E. ~~3.~~ Subject to the minimum 20% limitation described in subsection (A) of this Section, all ~~All~~ customers who produce or purchase at least 10% of their annual electricity consumption from photovoltaic or solar thermal electric resources installed in Arizona after January 1, 1997 shall be selected for participation in the competitive market if those customers apply for participation in the competitive market. ~~Such participants count toward the minimum requirements in R14-2-1604 (A) and R14-2-1604 (B).~~

~~4. The Commission staff shall commence a series of workshops on selection issues within 45 days of the adoption of this Article and staff shall submit a report to the Commission discussing the activities and recommendations of participants in the workshops. The report shall be due~~

~~not later than 90 days prior to the date indicated in R14-2-1602.~~

F. No change.

G. An Affected Utility, Utility Distribution Company, or Load-Serving Entity may, beginning January 1, 2001, engage in buy-throughs with individual or aggregated consumers. Any buy-through contract shall ensure that the consumer pays all non-bypassable charges that would otherwise apply. Any contract for a buy-through effective prior to the date indicated in R14-2-1604(A) must be approved by the Commission.

H. Schedule Modifications for Cooperatives
1. An electric cooperative may request that the Commission modify the schedule described in R14-2-1604(A) through R14-2-1604(E)~~(D)~~ so as to preserve the tax exempt status of the cooperative or to allow time to modify contractual arrangements pertaining to delivery of power supplies and associated loans.
2. As part of the request, the cooperative shall propose methods to enhance consumer choice among generation resources.
3. The Commission shall consider whether the benefits of modifying the schedule exceed the costs of modifying the schedule.

R14-2-1605. Competitive Services

A properly certificated Electric Service Provider may offer any of the following services under bilateral or multilateral contracts with retail consumers:

A. No change.

B. Any service described in R14-2-1606, except Noncompetitive services as defined by R14-2-1601.29 or Noncompetitive services as defined ~~Distribution Service and except services required~~ by the Federal Energy Regulatory Commission ~~to be monopoly services.~~ Billing and collection services, ~~and~~ information services, and self-aggregation services do not require a Certificate of Convenience and Necessity. Aggregation of retail electric customers into a purchasing group is considered to be a competitive service.

R14-2-1606. Services Required To Be Made Available ~~by Affected Utilities~~

A. ~~Until the Commission determines that competition has been substantially implemented for a particular class of consumers (residential, commercial, industrial) so that all consumers in that class have an opportunity to participate in the competitive market, and until all Stranded Costs pertaining to that class of customers have been recovered, each~~ Each Affected Utility shall make available to all consumers in that class in its service area, as defined on the date indicated in R14-2-1602, Standard Offer bundled generation, transmission, ancillary, distribution, and other necessary services at regulated rates. After January 1, 2001 Standard Offer service shall be provided by Utility Distribution Companies who shall also act as Providers of Last Resort.
~~1. An Affected Utility may request that the Commission determine that competition has been substantially implemented to allow discontinuation of Standard Offer service and shall provide sufficient documentation to support its request.~~
~~2. The Commission may, on its own motion, investigate whether competition has been substantially implemented and whether Standard Offer service may be discontinued.~~

B. After January 1, 2001, power purchased by a Utility Distribution Company to serve Standard Offer customers, except purchases made through spot markets, shall be acquired through competitive bid. Any resulting contract in excess of 12 months shall contain provisions allowing the Utility Distribution Company to ratchet down its power purchases. A Utility Distribution Company may request that the Commission modify any provision of this subsection for good cause.

~~B.~~C. Standard Offer Tariffs
1. By the date indicated in R14-2-1602, each Affected Utility may file proposed tariffs to provide Standard Offer Bundled Service and such rates shall not become effective until approved by the Commission. If no such tariffs are filed, rates and services in existence as of the date in R14-2-1602 shall constitute the Standard Offer.
2. Affected Utilities may file proposed revisions to such rates. It is the expectation of the Commission that the rates for Standard Offer service will not increase, relative to existing rates, as a result of allowing competition. Any rate increase proposed by an Affected Utility for Standard Offer service must be fully justified through a rate case proceeding.
3. Such rates shall reflect the costs of providing the service.
4. Consumers receiving Standard Offer service are eligible for potential future rate reductions authorized by the Commission, such as reductions authorized in Decision No. 59601.

~~C.~~D. By the date indicated in R14-2-1602, each Affected Utility shall file Unbundled Service tariffs to provide the services listed below to the extent allowed by these rules to all eligible purchasers on a nondiscriminatory basis. Other entities seeking to provide any of these services must also file tariffs consistent with these rules:
1. Distribution Service;
2. Metering and Meter Reading Services ~~meter reading services~~;
3. Billing and collection services;
4. Open access transmission service (as approved by the Federal Energy Regulatory Commission, if applicable);
5. Ancillary services in accordance with Federal Energy Regulatory Commission Order 888 (III FERC Stats. & Regs. paragraph 31,036, 1996) incorporated herein by reference;
6. Information services such as provision of customer information to other Electric Service Providers;
7. Other ancillary services necessary for safe and reliable system operation.

~~D.~~E. To manage its risks, an Affected Utility or Electric Service Provider may include in its tariffs deposit requirements and advance payment requirements for Unbundled Services.

~~E.~~F. The Affected Utilities must provide transmission and ancillary services according to the following guidelines:
1. Services must be provided consistent with applicable tariffs filed with the Federal Energy Regulatory Commission.
2. Unless otherwise required by federal regulation, Affected Utilities must accept power and energy delivered to their transmission systems by others and offer transmission and related services comparable to services they provide to themselves.

~~F.~~G. Customer Data
1. Upon written authorization by the customer, a ~~an~~ Load-Serving Entity ~~Electric Service Provider~~ shall release in a timely and useful manner that customer's demand and energy data for the most recent 12-month period to a customer-specified Electric Service Provider.

2. The Electric Service Provider requesting such customer data shall provide an accurate account number for the customer.
3. The form of data shall be mutually agreed upon by the parties and such data shall not be unreasonably withheld.
4. Utility Distribution Companies shall be allowed access to the Meter Reading Service Provider server for customers served by the Utility Distribution Company's distribution system.

~~G.~~H. Rates for Unbundled Services

1. The Commission shall review and approve rates for services listed in R14-2-1606(D)~~(C)~~ and requirements listed in R14-2-1606(E)~~(D)~~, where it has jurisdiction, before such services can be offered.
2. Such rates shall reflect the costs of providing the services.
3. Such rates may be downwardly flexible if approved by the Commission.

~~H.~~I. Electric Service Providers offering services under this R14-2-1606 shall provide adequate supporting documentation for their proposed rates. Where rates are approved by another jurisdiction, such as the Federal Energy Regulatory Commission, those rates shall be provided to this Commission.

~~I. Within 90 days of the adoption of this Article, the Commission staff shall commence a series of workshops to explore issues in the provision of Unbundled Service and Standard Offer service.~~

~~1. Parties to be invited to participate in the workshops shall include utilities, consumers, organizations promoting energy efficiency, and other Electric Service Providers.~~
~~2. Among the issues to be reviewed in the workshops are: metering requirements; metering protocols; designation of appropriate test years; the nature of adjustments to test year data; de-averaging of rates; service characteristics such as voltage levels; revenue uncertainty; line extension policies; and the need for performance bonds.~~
~~3. A report shall be submitted to the Commission by the staff on the activities and recommendations of the participants in the workshops not later than 60 days prior to the date indicated in R14-2-1602. The Commission shall consider any recommendations regarding Unbundled Service and Standard Offer service tariffs.~~

R14-2-1607. Recovery of Stranded Cost of Affected Utilities

A. The Affected Utilities shall take every reasonable ~~feasible~~, cost-effective measure to mitigate or offset Stranded Cost by means such as expanding wholesale or retail markets, or offering a wider scope of services for profit, among others.

B. The Commission shall allow a reasonable opportunity for recovery of unmitigated Stranded Cost by Affected Utilities.

~~G.~~C. The Affected Utilities shall file estimates of unmitigated Stranded Cost. Such estimates shall be fully supported by analyses and by records of market transactions undertaken by willing buyers and willing sellers.

~~C. A working group to develop recommendations for the analysis and recovery of Stranded Cost shall be established.~~

~~1. The working group shall commence activities within 15 days of the date of adoption of this Article.~~
~~2. Members of the working group shall include representatives of staff, the Residential Utility Consumer Office, consumers, utilities, and other Electric Service Providers. In addition, the Executive and Legislative Branches shall be invited to send representatives to be members of the working group.~~
~~3. The working group shall be coordinated by the Director of the Utilities Division of the Commission or by his or her designee.~~

~~H.~~D. An Affected Utility shall request Commission approval, on or before August 21, 1998, of distribution charges or other means of recovering unmitigated Stranded Cost from customers who reduce or terminate service from the Affected Utility as a direct result of competition governed by this Article, or who obtain lower rates from the Affected Utility as a direct result of the competition governed by this Article.

~~D. In developing its recommendations, the working group shall consider at least the following factors:~~

~~1. The impact of Stranded Cost recovery on the effectiveness of competition;~~
~~2. The impact of Stranded Cost recovery on customers of the Affected Utility who do not participate in the competitive market;~~
~~3. The impact, if any, on the Affected Utility's ability to meet debt obligations;~~
~~4. The impact of Stranded Cost recovery on prices paid by consumers who participate in the competitive market;~~
~~5. The degree to which the Affected Utility has mitigated or offset Stranded Cost;~~
~~6. The degree to which some assets have values in excess of their book values;~~
~~7. Appropriate treatment of negative Stranded Cost;~~
~~8. The time period over which such Stranded Cost charges may be recovered. The Commission shall limit the application of such charges to a specified time period;~~
~~9. The ease of determining the amount of Stranded Cost;~~
~~10. The applicability of Stranded Cost to interruptible customers;~~
~~11. The amount of electricity generated by renewable generating resources owned by the Affected Utility.~~

~~I.~~E. The Commission shall, after hearing and consideration of analyses and recommendations presented by the Affected Utilities, staff, and intervenors, determine for each Affected Utility the magnitude of Stranded Cost, and appropriate Stranded Cost recovery mechanisms and charges. In making its determination of mechanisms and charges, the Commission shall consider at least the following factors:

1. The impact of Stranded Cost recovery on the effectiveness of competition;
2. The impact of Stranded Cost recovery on customers of the Affected Utility who do not participate in the competitive market;
3. The impact, if any, on the Affected Utility's ability to meet debt obligations;
4. The impact of Stranded Cost recovery on prices paid by consumers who participate in the competitive market;
5. The degree to which the Affected Utility has mitigated or offset Stranded Cost;
6. The degree to which some assets have values in excess of their book values;
7. Appropriate treatment of negative Stranded Cost;
8. The time period over which such Stranded Cost charges may be recovered. The Commission shall limit the application of such charges to a specified time period;
9. The ease of determining the amount of Stranded Cost;
10. The applicability of Stranded Cost to interruptible customers;
11. The amount of electricity generated by renewable generating resources owned by the Affected Utility.

~~E. The working group shall submit to the Commission a report on the activities and recommendations of the working group~~

~~no later than 90 days prior to the date indicated in R14-2-1602.~~

~~J.~~F. A Competitive Transition Charge (CTC) may be assessed only ~~Stranded Cost may only be recovered from~~ on customer purchases made in the competitive market using the provisions of this Article. Any reduction in electricity purchases from an Affected Utility resulting from self-generation, demand side management, or other demand reduction attributable to any cause other than the retail access provisions of this Article shall not be used to calculate or recover any Stranded Cost from a consumer.

~~F. The Commission shall consider the recommendations and decide what actions, if any, to take based on the recommendations.~~

G. Stranded Cost shall be recovered from customer classes in a manner consistent with the specific company's current rate treatment of the stranded asset, in order to effect a recovery of Stranded Cost that is in substantially the same proportion as the recovery of similar costs from customers or customer classes under current rates.

~~K.~~H. The Commission may order an Affected Utility to file estimates of Stranded Cost and mechanisms to recover or, if negative, to refund Stranded Cost.

~~L.~~I. The Commission may order regular revisions to estimates of the magnitude of Stranded Cost.

R14-2-1608. System Benefits Charges

A. By the date indicated in R14-2-1602, each Affected Utility or Utility Distribution Company shall file for Commission review non-bypassable rates or related mechanisms to recover the applicable pro-rata costs of System Benefits from all consumers located in the Affected Utility's or Utility Distribution Companies' service area who participate in the competitive market. Affected Utilities or Utility Distribution Companies shall file for review of the Systems Benefits Charge every 3 years. ~~In addition, the Affected Utility may file for a change in the System Benefits charge at any time.~~ The amount collected annually through the System Benefits charge shall be sufficient to fund the Affected Utilities' or Utility Distribution Companies' ~~present~~ Commission-approved low income, demand side management, market transformation, environmental, renewables, long-term public benefit research and development, and nuclear fuel disposal and nuclear power plant decommissioning programs in effect from time to time. Now, the Commission will approve a solar water heater rebate program: $200,000 to be allocated proportionally among the state's Utility Distribution Companies in 1999, $400,000 in 2000, $600,000 in 2001, $800,000 in 2002, and $1 million in 2003; the rebate will not be more than $500 per system for Commission staff-approved solar water heaters. After 2003, future Commissions may review this program for efficacy.

B. Each Affected Utility or Utility Distribution Company shall provide adequate supporting documentation for its proposed rates for System Benefits.

C. An Affected Utility or Utility Distribution Company shall recover the costs of System Benefits only upon hearing and approval by the Commission of the recovery charge and mechanism. The Commission may combine its review of System Benefits charges with its review of filings pursuant to R14-2-1606.

~~D. Methods of calculating System Benefits charges shall be included in the workshops described in R14-2-1606 (I).~~

R14-2-1609. Solar Portfolio Standard

A. Starting on January 1, 1999, any Electric Service Provider selling electricity or aggregating customers for the purpose of selling electricity under the provisions of this Article must derive at least .2% of the total retail energy sold competitively from new solar energy resources, whether that solar energy is purchased or generated by the seller. Solar resources include photovoltaic resources and solar thermal resources that generate electricity. New solar resources are those installed on or after January 1, 1997.

~~A. Starting on January 1, 1999, any Electric Service Provider selling electricity under the provisions of this Article must derive at least 2 of 1% of the total retail energy sold competitively from new solar resources, whether that solar energy is purchased or generated by the seller. Solar resources include photovoltaic resources and solar thermal resources that generate electricity. New solar resources are those installed on or after January 1, 1997.~~

B. Starting January 1 of each year from 2000 through 2003, the solar resource requirement shall increase by .2% with the result that starting January 1, 2003, any Electric Service Provider selling electricity or aggregating customers for the purpose of selling electricity under the provisions of this Article must derive at least 1.0% of the total retail energy sold competitively from new solar energy resources. The 1.0% requirement shall be in effect from January 1, 2003 through December 31, 2012.

~~B. Solar portfolio standard after December 31, 2001:~~

~~2. Starting on January 1, 2002, any Electric Service Provider selling electricity under the provisions of this Article must derive at least 1% of the total retail energy sold competitively from new solar resources, whether that solar energy is purchased or generated by the seller. Solar resources include photovoltaic resources and solar thermal resources that generate electricity. New solar resources are those installed on or after January 1, 1997.~~

~~2. The Commission may change the solar portfolio percentage applicable after December 31, 2001, taking into account, among other factors, the costs of producing solar electricity and the costs of fossil fuel for conventional power plants.~~

C. The solar portfolio requirement shall only apply to competitive retail electricity in the years 1999 and 2000 and shall apply to all retail electricity in the years 2001 and thereafter.

~~C.~~D. Electric Service Providers shall be eligible for a number of extra credit multipliers that may be used to meet the solar portfolio standard requirements: ~~Any Electric Service Provider certificated under the provisions of this Article shall be able to credit 2 times the electric energy it generated, or caused to be generated under contract, before January 1, 1999 using photovoltaics or solar thermal resources installed on or after January 1, 1997 in Arizona to the electric energy requirements of R14-2-1609(A) or (B).~~

1. Early Installation Extra Credit Multiplier: For new solar electric systems installed and operating prior to December 31, 2003, Electric Service Providers would qualify for multiple extra credits for kWh produced for 5 years following operational start-up of the solar electric system. The 5-year extra credit would vary depending upon the year in which the system started up, as follows:

YEAR	EXTRA CREDIT MULTIPLIER
1997	.5
1998	.5

1999	.5
2000	.4
2001	.3
2002	.2
2003	.1

The Early Installation Extra Credit Multiplier would end in 2003.

2. Solar Economic Development Extra Credit Multipliers: There are 2 equal parts to this multiplier, an in-state installation credit and an in-state content multiplier.
   a. In-State Power Plant Installation Extra Credit Multiplier: Solar electric power plants installed in Arizona shall receive a .5 extra credit multiplier.
   b. In-State Manufacturing and Installation Content Extra Credit Multiplier: Solar electric power plants shall receive up to a .5 extra credit multiplier related to the manufacturing and installation content that comes from Arizona. The percentage of Arizona content of the total installed plant cost shall be multiplied by .5 to determine the appropriate extra credit multiplier. So, for instance, if a solar installation included 80% Arizona content, the resulting extra credit multiplier would be .4 (which is .8 X .5).
3. Distributed Solar Electric Generator and Solar Incentive Program Extra Credit Multiplier: Any distributed solar electric generator that meets more than one of the eligibility conditions will be limited to only one .5 extra credit multiplier from this subsection. Appropriate meters will be attached to each solar electric generator and read at least once annually to verify solar performance.
   a. Solar electric generators installed at or on the customer premises in Arizona. Eligible customer premises locations will include both grid-connected and remote, non-grid-connected locations. In order for Electric Service Providers to claim an extra credit multiplier, the Electric Service Provider must have contributed at least 10% of the total installed cost or have financed at least 80% of the total installed cost.
   b. Solar electric generators located in Arizona that are included in any Electric Service Provider's Green Pricing program.
   c. Solar electric generators located in Arizona that are included in any Electric Service Provider's Net Metering or Net Billing program.
   d. Solar electric generators located in Arizona that are included in any Electric Service Provider's solar leasing program.
   e. All Green Pricing, Net Metering, Net Billing, and Solar Leasing programs must have been reviewed and approved by the Director, Utilities Division in order for the Electric Service Provider to accrue extra credit multipliers from this subsection.
4. All multipliers are additive, allowing a maximum combined extra credit multiplier of 2.0 in years 1997-2003, for equipment installed and manufactured in Arizona and either installed at customer premises or participating in approved solar incentive programs. So, if an Electric Service Provider qualifies for a 2.0 extra credit multiplier and it produces 1 solar kWh, the Electric Service Provider would get credit for 3 solar kWh (1 produced plus 2 extra credit).

~~D.~~E. No change.

~~E.~~F. If an Electric Service Provider selling electricity under the provisions of this Article fails to meet the requirement in R14-2-1609(A) or (B) in any year, the Commission shall ~~may~~ impose a penalty ~~requirement~~ on that Electric Service Provider that the Electric Service Provider pay an amount equal ~~up~~ to 304 per kWh to the Solar Electric Fund for deficiencies in the provision of solar electricity ~~energy~~. This Solar Electric Fund will be established and utilized to purchase solar electric generators or solar electricity in the following calendar year for the use by public entities in Arizona such as schools, cities, counties, or state agencies. Title to any equipment purchased by the Solar Electric Fund will be transferred to the public entity. In addition, if the provision of solar energy is consistently deficient, the Commission may void an Electric Service Provider's contracts negotiated under this Article.
   1. The Director, Utilities Division shall establish a Solar Electric Fund in 1999 to receive deficiency payments and finance solar electricity projects.
   2. The Director, Utilities Division shall select an independent administrator for the selection of projects to be financed by the Solar Electric Fund. A portion of the Solar Electric Fund shall be used for administration of the Fund and a designated portion of the Fund will be set aside for ongoing operation and maintenance of projects financed by the Fund.

~~F.~~G. Photovoltaic or solar thermal electric resources that are located on the consumer's premises shall count toward the solar portfolio standard applicable to the current Electric Service Provider serving that consumer.

~~G.~~H. Any solar electric generators installed by an Affected Utility to meet the ~~The~~ solar portfolio standard shall be counted toward meeting ~~described in this section is in addition to~~ renewable resource goals for Affected Utilities established in Decision No. 58643.

I. Any Electric Service Provider or independent solar electric generator that produces or purchases any solar kWh in excess of its annual portfolio requirements may save or bank those excess solar kWh for use or sale in future years. Any eligible solar kWh produced subject to this rule may be sold or traded to any Electric Service Provider that is subject to this rule. Appropriate documentation, subject to Commission review, shall be given to the purchasing entity and shall be referenced in the reports of the Electric Service Provider that is using the purchased kWh to meet its portfolio requirements.

J. Solar portfolio standard requirements shall be calculated on an annual basis, based upon electricity sold during the calendar year.

K. An Electric Service Provider shall be entitled to receive a partial credit against the solar portfolio requirement if the Electric Service Provider or its affiliate owns or makes a significant investment in any solar electric manufacturing plant that is located in Arizona. The credit will be equal to the amount of the nameplate capacity of the solar electric generators produced in Arizona and sold in a calendar year times 2,190 hours (approximating a 25% capacity factor).
   1. The credit against the portfolio requirement shall be limited to the following percentages of the total portfolio requirement:

1999	Maximum of 50% of the portfolio requirement
2000	Maximum of 50% of the portfolio requirement

2001	Maximum of 25% of the portfolio requirement
2002	Maximum of 25% of the portfolio requirement
2003 and on	Maximum of 20% of the portfolio requirement

2. No extra credit multipliers will be allowed for this credit. In order to avoid double-counting of the same equipment, solar electric generators that are used by other Electric Service Providers to meet their Arizona solar portfolio requirements will not be allowable for credits under this Section for the manufacturer/Electric Service Provider to meet its portfolio requirements.

L. The Director, Utilities Division shall develop appropriate safety, durability, reliability, and performance standards necessary for solar generating equipment to qualify for the solar portfolio standard. Standards requirements will apply only to facilities constructed or acquired after the standards are publicly issued.

R14-2-1610. Transmission and Distribution Access ~~Spot Markets and Independent System Operation~~

A. The Affected Utilities shall provide non-discriminatory open access to transmission and distribution facilities to serve all customers. No preference or priority shall be given to any distribution customer based on whether the customer is purchasing power under the Affected Utility's Standard Offer or in the competitive market. Any transmission capacity that is reserved for use by the retail customers of the Affected Utility's Utility Distribution Company shall be allocated among Standard Offer customers and competitive market customers on a pro-rata basis.

~~A. The Commission shall conduct an inquiry into spot market development and independent system operation for the transmission system.~~

B. The Commission supports the development of an Independent System Operator (ISO) or, absent an Independent System Operator, an Independent Scheduling Administrator (ISA).

~~B. The Commission may support development of a spot market or independent system operator or operators for the transmission system.~~

C. The Commission believes that an Independent Scheduling Administrator is necessary in order to provide non-discriminatory retail access and to facilitate a robust and efficient electricity market. Therefore, those Affected Utilities that own or operate Arizona transmission facilities shall file with the Federal Energy Regulatory Commission by October 31, 1998 for approval of an Independent Scheduling Administrator having the following characteristics:

~~C. The Commission may work with other entities to help establish spot markets and independent system operators.~~

1. The Independent Scheduling Administrator shall calculate Available Transmission Capacity (ATC) for Arizona transmission facilities that belong to the Affected Utilities or other Independent Scheduling Administrator participants, and shall develop and operate an overarching statewide OASIS.
2. The Independent Scheduling Administrator shall implement and oversee the non-discriminatory application of protocols to ensure statewide consistency for transmission access. These protocols shall include, but are not limited to, protocols for determining transmission system transfer capabilities, committed uses of the transmission system, available transfer capabilities, and Must-Run Generating Units.
3. The Independent Scheduling Administrator shall provide dispute resolution processes that enable market participants to expeditiously resolve claims of discriminatory treatment in the reservation, scheduling, use and curtailment of transmission services.
4. All requests (wholesale, Standard Offer retail, and competitive retail) for reservation and scheduling of the use of Arizona transmission facilities that belong to the Affected Utilities or other Independent Scheduling Administrator participants shall be made to, or through, the Independent Scheduling Administrator using a single, standardized procedure.

D. The Affected Utilities that own or operate Arizona transmission facilities shall file a proposed Independent Scheduling Administrator implementation plan with the Commission by September 1, 1998. The implementation plan shall address Independent Scheduling Administrator governance, incorporation, financing and staffing; the acquisition of physical facilities and staff by the Independent Scheduling Administrator; the schedule for the phased development of Independent Scheduling Administrator functionality; contingency plans to ensure that critical functionality is in place by January 1, 1999; and any other significant issues related to the timely and successful implementation of the Independent Scheduling Administrator.

E. Each of the Affected Utilities shall make good faith efforts to develop a regional, multi-state Independent System Operator, to which the Independent Scheduling Administrator should transfer its relevant assets and functions as the Independent System Operator becomes able to carry out those functions.

F. It is the intent of the Commission that prudently-incurred costs incurred by the Affected Utilities in the establishment and operation of the Independent Scheduling Administrator, and subsequently the Independent System Operator, should be recovered from customers using the transmission system, including the Affected Utilities' wholesale customers, Standard Offer retail customers, and competitive retail customers on a non-discriminatory basis through Federal Energy Regulatory Commission-regulated prices. Proposed rates for the recovery of such costs shall be filed with the Federal Energy Regulatory Commission and the Commission. In the event that the Federal Energy Regulatory Commission does not permit recovery of prudently incurred Independent Scheduling Administrator costs within 90 days of the date of making an application with the Federal Energy Regulatory Commission, the Commission may authorize Affected Utilities to recover such costs through a distribution surcharge.

G. The Commission supports the use of "Scheduling Coordinators" to provide aggregation of customers' schedules to the Independent Scheduling Administrator and the respective Control Area Operators simultaneously until the implementation of a regional Independent System Operator, at which time the schedules will be submitted to the Independent System Operator. The primary duties of Scheduling Coordinators are to:

1. Forecast their customers' load requirements;
2. Submit balanced schedules (i.e., schedules for which total generation is equal to total load of the Scheduling Coordinator's customers plus appropriate transmission losses) and North American Electric Reliability Council/Western Systems Coordinating Council tags;
3. Arrange for the acquisition of the necessary transmission and ancillary services;

4. Respond to contingencies and curtailments as directed by the Control Area Operators, Independent Scheduling Administrator or Independent System Operator;
5. Actively participate in the schedule checkout process and the settlement processes of the Control Area Operators, Independent Scheduling Administrator or Independent System Operator.

H. The Affected Utilities shall provide services from the Must-Run Generating Units to Standard Offer retail customers and competitive retail customers on a comparable, non-discriminatory basis at regulated prices. The Affected Utilities shall specify the obligations of the Must-Run Generating Units in appropriate sales contracts prior to any divestiture. Under auspices of the Electric System Reliability and Safety Working Group, the Affected Utilities shall develop statewide protocols for pricing and availability of services from Must-Run Generating Units with input from other stakeholders. These protocols shall be presented to the Commission for review and filed with the Federal Energy Regulatory Commission, if necessary, by October 31, 1998.

R14-2-1611. In-state ~~In-State~~ Reciprocity

A. No change.
B. No change.
C. No change.
D. If an electric utility is an Arizona political subdivision or municipal corporation, then the existing service territory of such electric utility shall be deemed open to competition if the political subdivision or municipality has entered into an intergovernmental agreement with the Commission that establishes nondiscriminatory terms and conditions for Distribution Services and other Unbundled Services, provides a procedure for complaints arising therefrom, and provides for reciprocity with Affected Utilities or their affiliates. The Commission shall conduct a hearing to consider any such intergovernmental agreement.
E. An affiliate of an Arizona electric utility which is not an Affected Utility shall not be allowed to compete in the service territories of Affected Utilities unless the affiliate's parent company, the non-affected electric utility, submits a statement to the Commission indicating that the parent company will voluntarily open its service territory for competing sellers in a manner similar to the provisions of this Article and the Commission makes a finding to that effect.

R14-2-1612. Rates

A. No change.
B. No change.
C. Prior to the date indicated in R14-2-1604(D), competitively negotiated contracts governed by this Article customized to individual customers which comply with approved tariffs do not require further Commission approval. However, all such contracts whose term is 1 year or more and for service of 1 MW or more must be filed with the Director, ~~of the~~ Utilities Division as soon as practicable. If a contract does not comply with the provisions of this Article and the Affected Utility's or Electric Service Provider's approved tariffs, it shall not become effective without a Commission order. Such contracts shall be kept confidential by the Commission.
D. Contracts entered into on or after the date indicated in R14-2-1604(D) which comply with approved tariffs need not be filed with the Director, ~~of the~~ Utilities Division. If a contract does not comply with the provisions of this Article and the Affected Utility's or the Electric Service Provider's approved tariffs it shall not become effective without a Commission order.
E. No change.
F. No change.

R14-2-1613. Service Quality, Consumer Protection, Safety, and Billing Requirements

A. Except as indicated elsewhere in this Article, R14-2-201 through R14-2-212, inclusive, are adopted in this Article by reference. However, where the term "utility" is used in R14-2-201 through R14-2-212, the term "utility" shall pertain to Electric Service Providers providing the services described in each paragraph of R14-2-201 through R14-2-212. R14-2-203(E) and ~~R14-2-212 (G)(2) shall pertain only to Affected Utilities. R14-2-212 (G)(4) shall apply only to Affected Utilities~~. R14-2-212(H) shall pertain only to Utility Distribution Companies ~~Electric Service Providers who provide distribution service~~.
B. The following shall not apply to this Article:
   1. R14-2-202 in its entirety,
   2. R14-2-206 in its entirety,
   3. R14-2-207 in its entirety,
   ~~2.~~4. R14-2-212 (F)(1),
   ~~3.~~5. R14-2-213~~.~~,
   6. R14-2-208(E) and (F).
C. No consumer shall be deemed to have changed providers ~~suppliers~~ of any service authorized in this Article (including changes from supply by the Affected Utility to another provider ~~supplier~~) without written authorization by the consumer for service from the new provider~~.supplier.~~ If a consumer is switched (or slammed) to a different ("new") provider ~~supplier~~ without such written authorization, the new provider ~~supplier~~ shall cause service by the previous provider ~~supplier~~ to be resumed and the new provider ~~supplier~~ shall bear all costs associated with switching the consumer back to the previous provider ~~supplier~~. A written authorization that is obtained by deceit or deceptive practices shall not be deemed a valid written authorization. Providers shall submit reports within 30 days of the end of each calendar quarter to the Commission itemizing the direct complaints filed by customers who have had their Electric Service Providers changed without their authorization. Violations of the Commission's rules concerning slamming may result in fines and penalties, including but not limited to suspension or revocation of the provider's certificate.
D. Each Electric Service Provider providing service governed by this Article shall be responsible for meeting applicable reliability standards and shall work cooperatively with other companies with whom it has interconnections, directly or indirectly, to ensure safe, reliable electric service. Utility Distribution Companies shall make reasonable efforts to notify customers of scheduled outages, and also provide notification to the Commission.
E. Each Electric Service Provider shall provide at least 45 ~~30~~ days notice to all of its affected consumers of its intent to cease providing ~~if it is no longer obtaining~~ generation, transmission, distribution, or ancillary services necessitating that the consumer obtain service from another supplier of generation, transmission, distribution, or ancillary services.
F. No change.
G. No change.
H. Electric Service Providers shall give at least 5 days notice to their customer of scheduled return to the Standard Offer, but that return of that customer to the Standard Offer would be at the next regular billing cycle. Responsibility for charges incurred between the notice and the next scheduled read date shall rest with the Electric Service Provider.

~~H.~~I. Each Electric Service Provider shall ensure that bills rendered on its behalf include its address and ~~the~~ toll free telephone numbers for billing, service, and safety inquiries. The bill must also include the address and toll free telephone numbers for the Phoenix and Tucson Consumer Service Sections of the Arizona Corporation Commission Utilities Division ~~and the telephone number of the Consumer Services Section of the Arizona Corporation Commission Utilities Division~~. Each Electric Service Provider shall ensure that billing and collections services rendered on its behalf comply with R14-2-1613(A) ~~and (B)~~.

~~I.~~J. Additional Provisions for Metering and Meter Reading Services

1. An Electric Service Provider who provides metering or meter reading services pertaining to a particular consumer shall provide access to meter reading data ~~readings to~~ other Electric Service Providers serving that same consumer when authorized by the consumer.
2. Any person or entity ~~A consumer or an Electric Service Provider~~ relying on metering information provided by another Electric Service Provider may request a meter test according to the tariff on file and approved by the Commission. However, if the meter is found to be in error by more than 3%, no meter testing fee will be charged.
3. Each competitive customer shall be assigned a Universal Node Identifier for each service delivery point by the Affected Utility or the Utility Distribution Company whose distribution system serves the customer.
3. ~~Protocols for metering shall be developed subsequent to the workshops described in R14-2-1606(I).~~
4. All competitive metered and billing data shall be translated into a consistent, statewide Electronic Data Interchange (EDI) format based on standards approved by the Utility Industry Group (UIG) that can be used by the Affected Utility or the Utility Distribution Company and the Electric Service Provider.
5. An Electronic Data Interchange Format shall be used for all data exchange transactions from the Meter Reading Service Provider to the Electric Service Provider, Utility Distribution Company, and Schedule Coordinator. This data will be transferred via the Internet using a secure sockets layer or other secure electronic media.
6. Minimum metering requirements for competitive customers over 20 kW, or 100,000 kWh annually, should consist of hourly consumption measurement meters or meter systems.
7. Competitive customers with hourly loads of 20 kW (or 100,000 kWh annually) or less, will be permitted to use Load Profiling to satisfy the requirements for hourly consumption data.
8. Meter ownership will be limited to the Affected Utility, Utility Distribution Company, and the Electric Service Provider, or the customer, who will obtain the meter from the Affected Utility, or Utility Distribution Company or an Electric Service Provider.
9. Maintenance and servicing of the metering equipment will be limited to the Affected Utility, Utility Distribution Company and the Electric Service Provider or their representative.
10. Distribution primary voltage Current Transformers and Potential Transformers may be owned by the Affected Utility, Utility Distribution Company or the Electric Service Provider or their representative.
11. Transmission primary voltage Current Transformers and Potential Transformers may be owned by the Affected Utility or Utility Distribution Company only.
12. North American Electric Reliability Council recognized holidays will be used in calculating "working days" for meter data timeliness requirements.
13. The operating procedures approved by the Director, Utilities Division will be used by the Utility Distribution Companies and the Meter Service Providers for performing work on primary metered customers.
14. The rules approved by the Director, Utilities Division will be used by the Meter Reading Service Provider for validating, editing, and estimating metering data.
15. The performance metering specifications and standards approved by the Director, Utilities Division will be used by all entities performing metering.

~~J.~~K. Working Group on System Reliability and Safety

1. ~~If it has not already done so, the~~ The Commission shall establish, by separate order, a working group to monitor and review system reliability and safety.
   a. The working group may establish technical advisory panels to assist it.
   e.b. Members of the working group shall include representatives of staff, consumers, the Residential Utility Consumer Office, utilities, other Electric Service Providers and organizations promoting energy efficiency. In addition, the Executive and Legislative Branches shall be invited to send representatives to be members of the working group.
   ~~b. The working group shall commence activities within 15 days of the date of adoption of this Article.~~
   ~~d.~~c. The working group shall be coordinated by the Director, ~~of the~~ Utilities Division of the Commission or by his or her designee.
2. All Electric Service Providers governed by this Article shall cooperate and participate in any investigation conducted by the working group, including provision of data reasonably related to system reliability or safety.
3. The working group shall report to the Commission on system reliability and safety regularly, and shall make recommendations to the Commission regarding improvements to reliability or safety.

~~K.~~L. Electric Service Providers shall comply with applicable reliability standards and practices established by the Western Systems Coordinating Council and the North American Electric Reliability Council or successor organizations.

~~L.~~M. Electric Service Providers shall provide notification and informational materials to consumers about competition and consumer choices, such as a standardized description of services, as ordered by the Commission.

N. Unbundled Billing Elements. All customer bills after January 1, 1999 will list, at a minimum, the following billing cost elements:

1. Electricity Costs
   a. Generation
   b. Competition Transition Charge
   c. Fuel or purchased power adjustor, if applicable
2. Delivery costs
   a. Distribution services
   b. Transmission services
   c. Ancillary services
3. Other Costs
   a. Metering Service
   b. Meter Reading Service

c. Billing and collection
d. System Benefits charge

O. The operating procedures approved by the Director, Utilities Division will be used for Direct Access Service Requests as well as other billing and collection transactions.

R14-2-1614. Reporting Requirements

A. Reports covering the following items, as applicable, shall be submitted to the Director, ~~of the~~ Utilities Division by Affected Utilities or Utility Distribution Companies and all Electric Service Providers granted a Certificate of Convenience and Necessity pursuant to this Article. These reports shall include the following information pertaining to competitive service offerings, Unbundled Services, and Standard Offer services in Arizona:
1. Type of services offered;
2. kW and kWh sales to consumers, disaggregated by customer class (for example, residential, commercial, industrial);
3. Solar energy sales (kWh) and sources for grid connected solar resources; kW capacity for off-grid solar resources;
4. Revenues from sales by customer class (for example, residential, commercial, industrial);
5. Number of retail customers disaggregated as follows: ~~aggregators,~~ residential, commercial under 40 kW, commercial 41 to 999 kW, ~~100 kW, commercial 100 kW to 2999 kW~~, commercial 1000 ~~3000~~ kW or more, industrial less than 1000 ~~3000~~ kW, industrial 1000 ~~3000~~ kW or more, agricultural (if not included in commercial), and other;
6. Retail kWh sales and revenues disaggregated by term of the contract (less than 1 year, 1 to 4 years, longer than 4 years), and by type of service (for example, firm, interruptible, other);
7. Amount of and revenues from each service provided under R14-2-1605, and, if applicable, R14-2-1606;
8. Value of all ~~Arizona-specific~~ assets used to serve Arizona customers and accumulated depreciation;
9. Tabulation of Arizona electric generation plants owned by the Electric Service Provider broken down by generation technology, fuel type, and generation capacity;
10. The number of customers aggregated and the amount of aggregated load;
~~10.~~11. Other data requested by staff or the Commission;
~~11.~~12. In addition, prior to the date indicated in R14-2-1604(D), Affected Utilities shall provide data demonstrating compliance with the requirements of R14-2-1604.

B. No change.
C. No change.
D. No change.
E. No change.
F. No change.
G. No change.

R14-2-1615. Administrative Requirements

A. Any Electric Service Provider certificated under this Article may file proposed ~~propose~~ additional tariffs for ~~electric~~ services at any time ~~by filing a proposed tariff with the Commission describing~~ which include a description of the service, maximum rates, terms and conditions. The proposed new ~~electrical~~ service may not be provided until the Commission has approved the tariff.
B. No change.
C. No change.
D. No change.

R14-2-1616. Separation of Monopoly and Competitive Services

A. All competitive generation assets and competitive services shall be separated from an Affected Utility prior to January 1, 2001. Such separation shall either be to an unaffiliated party or to a separate corporate affiliate or affiliates. If an Affected Utility chooses to transfer its competitive generation assets or competitive services to a competitive electric affiliate, such transfer shall be at a value determined by the Commission to be fair and reasonable.
B. Beginning January 1, 1999, an Affected Utility or Utility Distribution Company shall not provide competitive services as defined herein, except as otherwise authorized by these rules or by the Commission. However, this rule does not preclude an Affected Utility's or Utility Distribution Company's affiliate from providing competitive services. Nor does this rule preclude an Affected Utility or Utility Distribution Company from billing its own customers for distribution service, or from providing billing services to Electric Service Providers in conjunction with its own billing or from providing meters for Load Profiled residential customers. Nor does this rule require an Affected Utility or Utility Distribution Company to separate such assets or services utilized in these circumstances. Affected Utilities and Utility Distribution Companies may provide metering, meter reading, billing, and collection services within their service territories at tariffed rates to customers that do not have access to these services.
C. An Electric Distribution Cooperative is not subject to the provisions of R14-2-1616 except if it offers competitive electric services outside of the service territory it had as of the effective date of these rules.
D. To meet the solar portfolio requirement in R14-2-1609, the Utility Distribution Company may purchase, install, and operate the solar electric systems or contract with an affiliate to meet the solar portfolio requirement.

~~**R14-2-1616. Legal Issues**~~

~~A. A working group to identify, analyze and provide recommendations to the Commission on legal issues relevant to this Article shall be established.~~
~~1. The working group shall commence activities within 15 days of the date of adoption of this Article.~~
~~2. Members of the working group shall include representatives of staff, the Residential Utility Consumer Office, consumers, utilities, and other Electric Service Providers. In addition, the Executive and Legislative Branches and the Attorney General shall be invited to send representatives to be members of the working group.~~
~~3. The working group shall be coordinated by the Director of the Legal Division of the Commission or by his or her designee.~~
~~B. The working group shall submit to the Commission a report on the activities and recommendations of the working group no later than 90 days prior to the date indicated in R14-2-1602.~~
~~C. The Commission shall consider the recommendations and decide what actions, if any, to take based on the recommendations.~~

R14-2-1617. Affiliate Transactions

A. Separation. An Affected Utility or Utility Distribution Company and its affiliates shall operate as separate corporate entities. Books and records shall be kept separate, in accordance with applicable Uniform System of Accounts (USOA) and Generally Accepted Accounting Procedures (GAAP). The

books and records of any Electric Service Provider that is an affiliate of an Affected Utility or Utility Distribution Company shall be open for examination by the Commission and its staff consistent with the provisions set forth in R14-2-1614. All proprietary information shall remain confidential.

1. An Affected Utility or Utility Distribution Company shall not share office space, equipment, services, and systems with its competitive electric affiliates, nor access any computer or information systems of one another, except to the extent appropriate to perform shared corporate support functions permitted under subsection (A)(2). An Affected Utility or Utility Distribution Company shall not share office space, equipment, services, and systems with its other affiliates without full compensation in accordance with subsection (A)(7).
2. An Affected Utility or Utility Distribution Company, its parent holding company, or a separate affiliate created solely for the purpose of corporate support functions, may share with its affiliates joint corporate oversight, governance, support systems and personnel. Any shared support shall be priced, reported and conducted in accordance with all applicable Commission pricing and reporting requirements. An Affected Utility or Utility Distribution Company shall not use shared corporate support functions as a means to transfer confidential information, allow preferential treatment, or create significant opportunities for cross-subsidization of its affiliates, and shall provide mechanisms and safeguards against such activity in its compliance plan.
3. An affiliate of an Affected Utility or Utility Distribution Company shall not trade, promote, or advertise its affiliation with the Affected Utility or Utility Distribution Company, nor use or make use of the Affected Utility's name or logo in any material circulated by the affiliate, unless it discloses in plain legible or audible language, on the first page or at the first instance the Affected Utility or Utility Distribution Company name or logo appears, that:
   a. The affiliate is not the same company as the Affected Utility or Utility Distribution Company, and
   b. Customers do not have to buy the affiliate product in order to continue to receive quality regulated services from the Affected Utility or Utility Distribution Company.
4. An Affected Utility or Utility Distribution Company shall not offer or provide to its affiliates advertising space in any customer written communication unless it provides access to all other unaffiliated service providers on the same terms and conditions.
5. An Affected Utility or Utility Distribution Company shall not participate in joint advertising, marketing or sales with its affiliates. Any joint communication and correspondence with an existing customer by an Affected Utility or Utility Distribution Company and its affiliate shall be limited to consolidated billing, when applicable, and in accordance with these rules.
6. Except as provided in subsection A(2), an Affected Utility or Utility Distribution Company and its affiliate shall not jointly employ the same employees. This rule applies to Board of Directors and corporate officers. However, any board member or corporate officer of a holding company may also serve in the same capacity with the Affected Utility or Utility Distribution Company, or its affiliate, but not both. Where the Affected Utility is a multi-state utility, is not a member of a holding company structure, and assumes the corporate governance functions for its affiliates, the prohibition outlined in this section shall only apply to affiliates that operate within Arizona.
7. Transfer of Goods and Services: To the extent that these rules do not prohibit transfer of goods and services between an Affected Utility or Utility Distribution Company and its affiliates, all such transfers shall be subject to the following price provisions:
   a. Goods and services provided by an Affected Utility or Utility Distribution Company to an affiliate shall be transferred at the price and under the terms and conditions specified in its tariff. If the goods or service to be transferred is a non-tariffed item, the transfer price shall be the higher of fully allocated cost or the market price. Transfers from an affiliate to its affiliated Utility Distribution Company shall be priced at the lower of fully allocated cost or fair market value.
   b. Goods and services produced, purchased or developed for sale on the open market by the Affected Utility or Utility Distribution Company will be provided to its affiliates and unaffiliated companies on a nondiscriminatory basis, except as otherwise permitted by these rules or applicable law.
8. No Cross-subsidization: A competitive affiliate of an Affected Utility or Utility Distribution Company shall not be subsidized by any rate or charge for any noncompetitive service, and shall not be provided access to confidential utility information.

B. Access to Information. As a general rule, an Affected Utility, Utility Distribution Company or Electric Service Provider shall provide customer information to its affiliates and nonaffiliates on a non-discriminatory basis, provided prior affirmative customer written consent is obtained. Any non-customer specific non-public information shall be made contemporaneously available by an Affected Utility, Utility Distribution Company or Electric Service Provider to its affiliates and all other service providers on the same terms and conditions.

C. An Affected Utility or Utility Distribution Company shall adhere to the following guidelines:

1. Any list of Electric Service Providers provided by an Affected Utility or Utility Distribution Company to its customers which includes or identifies the Affected Utility's or Utility Distribution Company's competitive electric affiliates must include or identify non-affiliated entities included on the list of those Electric Service Providers authorized by the Commission to provide service within the Affected Utility's or Utility Distribution Company's certificated area. The Commission shall maintain an updated list of such Electric Service Providers and make that list available to Affected Utilities or Utility Distribution Companies at no cost.
2. An Affected Utility or Utility Distribution Company may provide non-public supplier information and data, which it has received from unaffiliated suppliers, to its affiliates or nonaffiliated entities only if the Affected Utility or Utility Distribution Company receives prior authorization from the supplier.
3. Except as otherwise provided in these rules, an Affected Utility or Utility Distribution Company shall not offer or provide customers advice, which includes promoting, marketing or selling, about its affiliates or other service providers.

4. An Affected Utility or Utility Distribution Company shall maintain contemporaneous records documenting all tariffed and nontariffed transactions with its affiliates, including but not limited to, all waivers of tariff or contract provisions and all discounts. These records shall be maintained for a period of 3 years, or longer if required by this Commission or another governmental agency.

D. Nondiscrimination. An Affected Utility, Utility Distribution Company, or their affiliates shall not represent that, as a result of the affiliation, customers of such affiliates will receive any treatment different from that provided to other, non-affiliated entities or their customers. An Affected Utility, Utility Distribution Company, or their affiliates shall not provide their affiliates, or customers of their affiliates, any preference over non-affiliated suppliers or their customers in the provision of services. For example:

1. Except when made generally available by an Affected Utility, Utility Distribution Company or their affiliates, through an open competitive bidding process, if the Affected Utility, Utility Distribution Company or their affiliates offers a discount or waives all or any part of any charge or fee to its affiliates, or offers a discount or waiver for a transaction in which their affiliates are involved, the entity shall contemporaneously make such discount or waiver available to all.
2. If a tariff provision allows for discretion in its application, an Affected Utility or Utility Distribution Company shall apply that provision equally among its affiliates and all other market participants and their respective customers.
3. Requests from affiliates and non-affiliated entities and their customers for services provided by the Affected Utility or Utility Distribution Company shall be processed on a nondiscriminatory basis.
4. An Affected Utility or Utility Distribution Company shall not condition or otherwise tie the provision of any service provided, nor the availability of discounts of rates or other charges or fees, rebates or waivers of terms and conditions of any services, to the taking of any goods or services from its affiliates.
5. In the course of business development and customer relations, except as otherwise provided in these rules, an Affected Utility or Utility Distribution Company shall refrain from:
   a. Providing leads to its affiliates;
   b. Soliciting business on behalf of affiliates;
   c. Acquiring information on behalf of, or provide information to, its affiliates;
   d. Sharing market analysis reports or any non-publicly available reports, including but not limited to market, forecast, planning or strategic reports, with its affiliates.

E. Compliance Plans. No later than December 31, 1998, each Affected Utility or Utility Distribution Company shall file a compliance plan demonstrating the procedures and mechanisms implemented to ensure that activity prohibited by these rules will not take place. The compliance plan shall be submitted to the Director, Utilities Division and shall be in effect until a determination is made regarding its compliance under these rules. The compliance plan shall thereafter be submitted annually to reflect any material changes. No later than December 31, 1999, and every year thereafter until December 31, 2002, an Affected Utility or Utility Distribution Company shall have a performance audit prepared by an independent auditor to examine compliance with the rules set forth herein. Such audits shall be filed with the Director, Utilities Division. After December 31, 2002 the Director, Utilities Division may request a Utility Distribution Company to conduct such an audit.

F. Waivers
1. Any affected entity may petition the Commission for a waiver by filing a verified application for waiver setting forth with specificity the circumstances whereby the public interest justifies a waiver from all or part of the provisions of this rule.
2. The Commission may grant such application upon a finding that a waiver is in the public interest.

R14-2-1618 Disclosure of Information

A. There are efforts under the auspices of the Western Conference of Public Service Commissioners to develop a tracking mechanism as to the source of electrons. To facilitate customer choice, the Commission intends to participate in developing this tracking mechanism and a side-by-side comparison for retail customers on price, price variability, fuel mix, and emissions of electricity offered for sale in Arizona and the West. Until this is accomplished, R14-2-1618 is a placeholder.

B. Each Load-Serving Entity shall prepare a consumer information label that sets forth the following information for customers with a demand of less than 1 MW:
1. Price to be charged for generation services,
2. Average price for generation service for each customer class,
3. Price variability information,
4. Customer service information,
5. Composition of resource portfolio,
6. Fuel mix characteristics of the resource portfolio,
7. Emissions characteristics of the resource portfolio,
8. Time period to which the reported information applies.

C. The Director, Utilities Division shall develop the format and reporting requirements for the consumer information label to ensure that the information required by subsection (A) is appropriately and accurately reported and to ensure that customers can use the labels for comparisons among Load-Serving Entities. The format developed by the Director, Utilities Division shall be used by each Load-Serving Entity.

D. Each Load-Serving Entity shall include the information disclosure label in a prominent position in all written marketing materials, including electronically published materials. When a Load-Serving Entity advertises in non-print media, the marketing materials shall indicate that the Load-Serving Entity shall provide the consumer information label to the public upon request.

E. Each Load-Serving Entity shall prepare an annual disclosure report that aggregates the resource portfolios of the Load-Serving Entity and its affiliates.

F. Each Load-Serving Entity shall prepare a statement of its terms of service that sets forth the following information:
1. Actual pricing structure or rate design according to which the customer with a load of less than 1 MW will be billed, including an explanation of price variability and price level adjustments that may cause the price to vary;
2. Length and description of the applicable contract and provisions and conditions for early termination by either party;
3. Due date of bills and consequences of late payment;
4. Conditions under which a credit agency is contacted;
5. Deposit requirements and interest on deposits;

6. Limits on warranties and damages;
7. All charges, fees, and penalties;
8. Information on consumer rights pertaining to estimated bills, third party billing, deferred payments, recission of supplier switches within 3 days of receipt of confirmation;
9. A toll-free telephone number for service complaints;
10. Low income rate eligibility;
11. Provisions for default service;
12. Applicable provisions of state utility laws; and
13. Method whereby customers will be notified of changes to the terms of service.

G. The consumer information label, the disclosure report, and the terms of service shall be distributed in accordance with the following requirements:
1. Prior to the initiation of service for any retail customer,
2. Prior to processing written authorization from a retail customer with a load of less than 1 MW to change Electric Service Providers,
3. To any person upon request,
4. Made a part of the annual report required to be filed with the Commission pursuant to law.
5. The information described in this subsection shall be posted on any electronic information medium of the Load-Serving Entities.

H. Failure to comply with the rules on information disclosure or dissemination of inaccurate information may result in suspension or revocation of certification or other penalties as determined by the Commission.

I. The Commission may establish a consumer information advisory panel to review the effectiveness of the provisions of this Section and to make recommendations for changes in the rules.